



W.P.(MD).No.30003 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.30003 of 2023

and

W.M.P(MD) Nos.25872, 25874 of 2023 and 8702 of 2024

N.Kandhasamy

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Common Cadre Authority,
Office of the Joint Registrar of
Co-operative Societies,
Tiruchirappali Region,
Kaajamalai, Tiruchirappalli.

2. The Deputy Registrar of Co-operative
Societies,
Musiri Circle,
Tiruchirappalli District.

3. The Administrator,
R.719, Valasiramani Primary Agricultural
Co-operative Credit Society,
Valasiramani, Musiri Taluk,
Tiruchirappalli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Certiorarified Mandamus, to call for the



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records relating to the impugned order vide ந.க.6018/2019/ பொபதி (3)நாள் : 31.05.2022 so far as imposing condition is concerned and impugned Charge memorandum vide ந.க.8039/2022/ பொபதி நாள் : 09.12.2022 issued by the first respondent and quash the same and consequently directing the respondents to disburse the retirement benefit payable to the petitioner within time frame.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by the Secretary of the third respondent Primary Agricultural Co-operative Credit Society, challenging the order dated 31.05.2022, wherein he has been permitted to retire without prejudice to Section 81 of enquiry and the disciplinary proceedings initiated as against him under charge memo dated 02.03.2022.

2. This Court, by an order, dated 24.01.2025 in W.P(MD) No.30004 of 2023 has set aside the charge memo dated 31.05.2022 and therefore, the pendency of the said charge memo cannot be a legal impediment for permitting the petitioner to retire from service.



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3. This Court has already arrived at a finding in the above said writ petition that the disciplinary proceedings cannot be continued as against a common cadre employee, after reaching the age of superannuation. Therefore, the condition imposed in the impugned order dated 31.05.2022, is liable to be set aside.

4. Further prayer has been sought for in the writ petition, challenging a charge memo dated 09.12.2022. Admittedly, the petitioner has reached the superannuation on 31.05.2022. Seven months thereafter, the impugned charge memo has been issued. Therefore, it is clear that such a charge memo cannot be issued after the date of superannuation, in view of the fact that there is no provision under the Common Cadre Service Rules permitting the authorities to initiate or to continue disciplinary proceedings.

5. In view of the above said deliberations, this Court is inclined to pass the following orders:

- a. The impugned charge memo dated 09.12.2022 is hereby set aside;*
- b. The petitioner is deemed to have retired from service with effect from 31.05.2022 and no*



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disciplinary proceedings can be initiated as against him;

c. The employees provident fund and earned leave salary of the writ petitioner shall be released within a period of twelve weeks from the date of receipt of a copy of this order; and

d. The other terminal benefits shall be retained by the respondents and the same shall be disbursed depending upon the outcome of Section 81 of the enquiry.

6. With the above said observations, this Writ Petition stands partly allowed to the extent as stated above. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

24.01.2025

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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