



W.P.(MD).No.30004 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.30004 of 2023

and

W.M.P(MD) Nos.25876 of 2023 and 8712 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 records relating to the impugned charge memorandum vide ஐ.க.7061/2021/



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பொப்தி நாளி : 02.03.2022 issued by the first respondent so far as imposing condition is concerned 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 charge memo dated 02.03.2022.

2. A perusal of the said charge memo reveals that the said charge memo has been issued by the Common Cadre Authority. Therefore, there cannot be any dispute that the petitioner falls within the Common Cadre Authority and governed by the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019. It is also admitted fact that the petitioner had attained the age of superannuation on 31.05.2022.

3. According to the learned counsel appearing for the writ petitioner, the petitioner being a Common Cadre Employee and governed by the above



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said Service Rules, there are no specific Rules, for continuing the disciplinary proceedings after retaining the petitioner in service after reaching the age of superannuation.

4. Per contra, the learned Additional Government Pleader appearing for the respondents herein had contended that serious charges have been levied as against the writ petitioner and as per the bye-laws, the petitioner would be retained in service for the purpose of completing the disciplinary proceedings.

5. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. The issue that arises for consideration is that whether a common cadre employee can be retained in service after the date of superannuation for the purpose of continuing the disciplinary proceedings already initiated, while he was in service.

7. The issue is no longer *res integra*. The Hon'ble Division Bench of our High Court in W.A.Nos.2220 & 2466 of 2021, dated 28.09.2021, in



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paragraph No.7 has held as follows:

“7. Unless otherwise the bye-law provides, the employee cannot be proceeded against after retirement. This will be applicable to all categories provided they do not come under the purview of G.O. dated 12.02.2019 creating common cadre. Once he comes into the common cadre, for the incident that took place prior to 12.02.2019, the authority competent to deal with the employees in the common cadre is entitled to proceed with the enquiry, but it shall be done only in terms of the clauses mentioned in the G.O. The G.O. has nowhere stated that the employee could be continued to be kept under suspension even after attaining the age of superannuation or there is no saving clause in the G.O. that if there are any conflict between the bye-law and the G.O, the clauses that are not going to be affected by the G.O. would continue to be in operation. In the absence of the enabling provision to continue departmental action of those employees falling under the common cadre, even though the incident would have taken place much prior to G.O. dated 12.02.2019, in the absence of specific clause in the G.O. to proceed departmentally after retirement, the appellant cannot proceed with the departmental action against the writ petitioner.”

8. In view of the judgment of the Hon'ble Division Bench, it is clear that as and when, an employee is absorbed into a common cadre service, the



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bye-laws of the concerned society are not applicable to him and he will be governed only by the above said Common Cadre Service Rules. The Common Cadre Service Rules do not provide for continuing or initiation or continuation of disciplinary proceedings after the date of superannuation. The said service rules also do not provide for retention of the employee in service after the date of superannuation.

9. In view of the above said legal decision, the charge memo dated 02.03.2022 cannot be proceeded any further by the respondent authorities.

10. In view of the above said deliberations, the impugned charge memo dated 02.03.2022 is hereby set aside. This Writ Petition stands allowed. 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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