



W.A.(MD)No.211 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.06.2025

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

AND

THE HONOURABLE **DR.JUSTICE A.D.MARIA CLETE**

W.A.(MD)No.211 of 2020

and

C.M.P.(MD)No.1436 of 2020

1.The Secretary to Government,
Cooperation, Food and Consumer
Protection (C1.I) Department,
Fort St.George, Chennai-600 009.

2.The Registrar of Co-operative Societies,
170, E.V.R.High Road,
Kilpauk, Chennai-600 010.

3.The Joint Registrar of Co-operative Societies,
55, Kosamada Street, Thiruvannamalai-606 601.

4.The Deputy Registrar of Co-operative Societies,
55, Kosamada Street, Thiruvannamalai-606 601.

... Appellants

-Vs-

P.Sivakami Pillai

... Respondent

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PRAYER: Appeal filed under Clause 15 of Letters Patent, praying this Court to set aside the order dated 09.01.2017 made in W.P.(MD)No.13858 of 2011 on the file of this Court.

For Appellants : Mr.S.P.Maharajan,
Special Government Pleader

For Respondent : No Appearance

JUDGMENT

[Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***]

The intra-Court appeal on hand has been instituted against the order of the Writ Court dated 09.01.2017 made in W.P.(MD)No.13858 of 2011.

2.The State is the appellant before this Court. The respondent was holding the post of Senior Inspector of Co-operative Societies and departmental disciplinary proceedings were initiated against him. The criminal case was also registered against the respondent. Since the respondent reached superannuation, the Government issued G.O.(D)No.86, Co-operation, Food and Consumer Protection (C1.I) Department, dated 29.04.1998, not allowing the respondent to retire from service and his services were extended, enabling the department to complete the departmental disciplinary proceedings. The said Government Order



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came to be challenged in the said Writ Petition. The Writ Court allowed the said

Writ Petition with the following direction:-

“12.In the result, the writ petition is allowed with the following terms:-

(i)the impugned order, for the only reason that no departmental proceedings has been continued or progressed for more than 18 years, is quashed.

(ii)the petitioner shall be permitted to retire from service peacefully from the date of his superannuation and based on which, he shall be paid the retirement and pensionary benefits for which he is entitled to, for all these years immediately.

(iii)the aforesaid direction shall be complied with by the respondents within a period of three months from the date of receipt of a copy of this order.

(iv)the petitioner shall also be entitled to claim continuous pension every month till his entitlement.

(v)It is needless to state that if any verdict has come from the competent criminal Court where the criminal case against the petitioner is pending, naturally the petitioner shall be bound by the said decision and that will not in any way stand the compliance of the aforesaid direction by the respondents.”



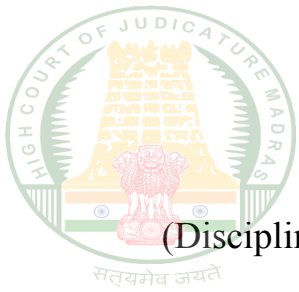
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3.The learned Special Government Pleader appearing for the appellants would submit that the Writ Court has not taken into consideration the fact that the respondent was facing criminal case and departmental disciplinary proceedings and therefore, the Government is empowered to pass an order, not allowing the employee to retire from service. Further, the respondent was dismissed from service with effect from 05.04.2021 under Rule 17(c)(i)(1) of Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules'). The respondent was convicted in the criminal case and therefore, the competent authority invoked Rule 17(c)(i)(1) of the Rules and dismissed the respondent from service.

4.Let us now consider the powers conferred on the authority under the Tamil Nadu Fundamental Rules. FR 56(b)(iv) enumerates that “a Government servant, who is under suspension against whom a complaint of criminal offence is under investigation or trial shall not be permitted by the appointing authority to retire on his reaching the date of retirement, but shall be retained in service until the enquiry into the charge of misconduct or criminal misconduct or the enquiry into allegations of criminal misconduct or the enquiry into contemplated charges or disciplinary proceeding taken under rule 17(c) of the Tamil Nadu Civil Services

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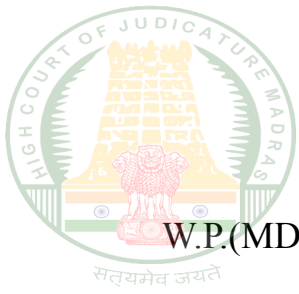


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(Discipline and Appeal) Rules or rule 3(c) of the Tamil Nadu Police Sub-ordinate service (Discipline and Appeal) Rules, as the case may be, in respect of item (iv) above is concluded and a final order passed thereon by the competent authority or by any higher authority.”

5.Under the Fundamental Rules, the authority competent is empowered to place an employee under suspension or pass an order, not allowing him to retire from service during the pendency of the departmental disciplinary proceedings or the criminal case. All appropriate further actions are to be initiated only after disposal of the criminal case and the departmental disciplinary proceedings. Simultaneous proceedings are also permissible and the principle in this regard has been settled and the Government also issued guidelines to that effect. Therefore, the order, not allowing the respondent to retire from service by placing him under suspension vide G.O.(D)No.86, dated 29.04.1998, is in consonance with FR 56(b) (iv). That apart, the criminal case is also ended with an order of conviction and consequently, the authority competent invoked Rule 17(c)(i)(1) of the Rules and dismissed the respondent from service, vide proceedings dated 05.04.2021.

6.That being the factum, the present Writ Appeal deserves to be considered. Therefore, the order of the Writ Court dated 09.01.2017 made in



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W.P.(MD)No.13858 of 2011 is set aside and accordingly, this Writ Appeal stands

allowed. No costs. Consequently, connected miscellaneous petition is closed.

[S.M.S, J.] & [A.D.M.C., J.]
19.06.2025

NCC : Yes / No

Index : Yes / No

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