



WA(MD)No.2691 of 2024

BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

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DATED : 07.01.2025

CORAM :

**THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A(MD)No.2691 of 2024
and
CMP(MD)No.18642 of 2024**

The General manager,
Tiruchirapalli District Co-operative Milk
Producers Union Limited,
Pudukottai Road,
Kottapattu, Tiruchirapalli.

... Appellant

VS.

1. P. Arunachalam

2. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Department of Animal Husbandry, Dairying, Fisheries,
Secretariat, Chennai.

3. The Commissioner,
The Department of Milk Production and Dairy Development,
Chennai – 51.

4. The Deputy General Manager,
Tiruchirapalli District Co-operative Milk
Producers Union Limited,
Pudukottai Road,
Kottapattu, Tiruchirapalli.

... Respondents



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Appeal filed under Clause 15 of the Letters Patent, against the order made in W.P(MD)No.21153 of 2024 dated 19.09.2024.

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For Appellant	: Mr.J.Devasenan
For R1	: Mr.M.Mohammed Zamil
For R2 to R4	: Mr.S.Shaji Bino
	Special Government Pleader

JUDGMENT

(Judgment of the Court was made by **M.S.RAMESH, J.**)

This writ appeal is directed against the order made in W.P(MD)No. 21153 of 2024 dated 19.09.2024.

2. On the basis of the audit report that the 1st respondent herein / writ petitioner had caused loss of a sum of Rs.8,56,350/- to the appellant Union, charges came to be framed against him on 28.07.2022 under special bye-laws governing the appellant Union. On 29.07.2022, the 1st respondent reached the age of superannuation. Orders were issued by the Union, permitting him to retire and withholding his encashment of earned leave benefits from the retirement benefits. When the 1st respondent herein had challenged the action of the appellant Union in withholding this monetary benefits in W.P(MD)No. 21153 of 2024, this Court by order dated 19.09.2024 allowed the said writ



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petition, by placing reliance on a decision of the Co-ordinate Bench of this Court in the case of State of Tamil Nadu, Rep. by the Secretary to Government vs. V.Mahalingam reported in 2019 SCC Online Mad 1195, and holding that the appellant do not have the authority or power to withhold the earned leave salaries. Challenging the said order, the present writ appeal has been filed.

3. The learned counsel appearing for the appellant put forth his submissions on two folds. Firstly, that the bye-laws provide for withholding of the surrender leave salary and therefore, the findings of the Writ Court that the appellant do not have such powers cannot be sustained. Secondly, it is submitted that the departmental proceedings were also initiated against him, for the loss caused by him, in which, the charges were held as proved. On the strength of the proven charges also, it is substantiated that the 1st respondent had caused the loss to the Union and therefore, the learned counsel attempted to justify the action by the Union.

4. Insofar as the grounds raised by the appellant are concerned, though the bye-laws may provide for withholding the encashment of leave salary from their employees, such an action requires to be taken only after due departmental enquiry, followed by an order of the disciplinary authority,



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upholding the charges and imposing a penalty. In the instant case, it is not in

dispute that no such order was passed by the disciplinary authority, imposing a punishment. If that be so, we are unable to understand as to how and on what basis, the appellant came to the conclusion that the 1st respondent herein, had caused loss to the Union and had unilaterally withheld the encashment of leave benefits. It is needless to point out that a mere set of proven charges by the enquiry officer, will not suffice for a punitive action of withholding the monetary benefits, in the absence of any final orders being passed.

5. In the light of this findings, the grounds raised by the appellant cannot be sustained. Thus, the order of the learned Single Judge passed in the writ petition does not require interference.

6. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(M.S.R, J.) (A.D.M.C, J.)
07.01.2025

Index : Yes / No
Neutral Citation : Yes / No
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- To
1. The Principal Secretary to Government,
State of Tamil Nadu,
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 2. The Commissioner,
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M.S.RAMESH, J.
and
A.D.MARIA CLETE, J.

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JUDGMENT MADE IN
WA(MD)No.2691 of 2024
DATED : 07.01.2025