IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08-01-2026

CORAM

THE HONOURABLE MR JUSTICE M.DHANDAPANI

WP No. 8297 of 2025
and WMP.No.9302 and 56569 of 2025

S.Mohamed Farook
S/o Syed Mohamed No 3 Kannappan
Street, Amanjikarai, Chennai 600 029

Petitioner(s)

Vs

1.The Commissioner
Tamil Nadu Co-operative Milk
Producers Federation Ltd. Aavin Illam,
Nandanam (head Office) Chennai 35

2.The Director,
Tamil Nadu Co-operative Milk
Producers Federation Ltd.,
Avin Illam, Nandanam (Head Office),
Chennai-600 035

Respondent(s)

For Petitioner(s): M/s.M.Velmurugan

For Respondent(s): Mr.R.Arvind

Prayer

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records of the first respondent in his proceedings impugned order Ref.No.12445/pers. Estt.1/2022 dated 28.02.2023 and quash the same and direct the respondents to pay the terminal benefits of the petitioner such as Gratuity Fund, Family benefit fund, Encashment of privilege leave and increment arrears from June 2017 till the date of retirement on 28.02.2023 and all terminal benefits along with interest at the rate of 10% per annum up to the date of realization.

ORDER

This Writ Petition has been filed seeking to call for the entire records of the first respondent vide impugned order in Ref.No.12445/pers. Estt.1/2022 dated 28.02.2023 and quash the same and direct the respondents to pay the terminal benefits along with interest at the rate of 10% per annum up to the date of realization and increment arrears from June 2017, till the date of retirement on 28.02.2023, to the petitioner.

2. Mr.R.Arvind, learned counsel takes notice on behalf of the respondents. In view of the consent expressed by the learned counsel on either side, the Writ Petition is taken up for final disposal at the stage of admission itself.

3. The case of the petitioner is that the petitioner was initially appointed as Process and Maintenance Operator in Tamil Nadu Co-operative Milk Producers Federation Ltd., in the year 1983 and was promoted as Assistant

Manager (Engineering) on 22.02.2014 and subsequently, he was transferred to Dindigul Co-operative Milk Producers Union, Dindigul on 13.12.2017 and posted to work as General Manager (in-charge) and continued service till 11.07.2019. Thereafter, on 24.09.2019, he was posted and transferred to Madurai Dairy, DCMPU, Madurai District and continued service as Assistant General Manager. Meanwhile, the first respondent issue a charge memo dated 08.05.2020 in Na.Ka.No.4393/Pers/IR/2/2020 against the petitioner alleging that stock deficit and a solid loss of Rs.1,74,72,400/- for the financial year 2018-2019 and 2019-2020 and the petitioner was suspended from service, charges were framed against him and an enquiry officer was appointed and enquiry was pending against him, however, his suspension came to be revoked on 04.06.2020 and on the same day, he was transferred to Ambattur Dairy, posted to work as Assistant General Manager (Engineering). Thereafter, the Audit Authority initiated surcharge proceedings against the petitioner, alleging loss of inventory stock at Madurai Co-operative Milk Producers Union for the financial year 2019-2020 vide Na.Ka.No.95/E2/2022 dated 24.11.2022 and called for explanation. Meanwhile, the petitioner retired from service on 28.02.2023 upon attaining the age of superannuation. Thereafter, surcharge proceedings vide T.Te/02/2022-23/E2 dated 15.02.2023 were initiated against him by the Deputy Registrar (Dairying), Dindigul / Enquiry Officer. Consequently, the first respondent vide reference No.12445/Pers.Estt.1/2022 dated 28.02.2023 passed the impugned order, withholding the terminal benefits till the finalization of disciplinary action, surcharge proceedings and audit objection pending against him. Challenging the said impugned order, the present Writ Petition has been filed.

4. Learned counsel appearing for the petitioner submitted that the impugned proceedings of the first respondent are illegal, arbitrary, mechanical and wholly unsustainable both in law and on facts, as they were initiated and continued after the petitioner's retirement without enabling provision under the Tamil Nadu Co-operative Societies Act, 1983, the service rules or the bye-laws. It is contended that the alleged audit objection relates only to negligence in discharge of duty and not to misappropriate, and therefore surcharge proceedings under Section 87 of the Act are impermissible, particularly after retirement. He placed reliance on the Full Bench decision in ***Andiyannan vs. Joint Registrar,*** *reported in [2015 (3) LW 513]* and subsequent judgements holding that surcharge proceedings cannot be initiated or continued against a retired employee and that the employer – employee relationship ceases upon retirement. The learned counsel further submitted that gratuity and other terminal benefits are statutorily protected under Section 13 of the Payment of Gratuity Act, 1972 and Section 79(2) of the TNCS Act, which create an absolute embargo against attachment or withholding of the Gratuity Fund, as the society holds the same only as a trustee for the employee. It is argued that withholding terminal benefits on the basis of belated audit objections and post-retirement

proceedings is without jurisdiction, violative of principles of natural justice. Therefore, the learned counsel prayed to quash the impugned order.

5. The learned counsel for the petitioner further submitted that the petitioner is entitled to receive subsistence allowance under Clause 15 of the By-laws, which stipulates that a retired employee shall continue to draw the subsistence allowance even if he was placed under suspended due to pendency of disciplinary proceedings. However, the said subsistence allowance has not been paid to the petitioner till date. Hence, the learned counsel prays for a direction to the respondents to disburse the subsistence allowance to the petitioner in accordance with Clause 15 of the Bye-laws.

6. On the above contention, this Court heard the learned counsel appearing for the respondents and perused the materials available on record.

7. In view of the contention of the learned counsel for the petitioner, this Court directs the respondents to disburse the subsistence allowance payable to the petitioner on or before 03.02.2026 and conclude the disciplinary proceedings pending against him within a period of three (3) months from the date of receipt of a copy of this order.

8. This Writ Petition stands disposed of in the above terms. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

08-01-2026

Anu

Index:Yes/No
Speaking/Non-speaking order
Internet:Yes
Neutral Citation:Yes/No

To

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Tamil Nadu Co-operative Milk
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M.DHANDAPANI J.

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