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WP No. 11018 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 11018 of 2026

AND

WMP NO. 11958 OF 2026

R.Shankar
S/o.Rathinam
1/25, Kaavaan Vattum,
Betha Kallupatti Gramam
Thekkupattu Post,
Ambalur Viz.635801
Nattrampalli Taluk,
Tirupattur District.

..Petitioner

Vs

1. The Joint Registrar of Co-operative Societies
Tirupattur Region, Tirupattur District.
2. The Deputy Registrar of Cooperative Societies
Tirupattur, Tirupattur District.
3. The Administrator
C1363, Kalanthira Chettiapannur Primary,
Agricultural Co operative Credit Society Ltd.,
Chettiapannur Vaniyambadi,
Thirupattur District.

..Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the third respondent dated 30.06.2025 not permitting the petitioner to retire from service on attaining the age of superannuation and quash the same as illegal and without jurisdiction and direct the third respondent



to allow the petitioner to retire from service and to pay D.C.R.G. amount and leave encashment and subsistence allowance for the period from March 2025 to May 2025 and pass orders

For Petitioner: Mr.R.Ramesh

For Respondents: Mr.K.Tamilvendan
Government Advocate for R1 & R2

Mr.S.Arumugam
Government Advocate for R3

ORDER

The writ petition has been filed seeking the following relief :

“ To issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the third respondent dated 30.06.2025 not permitting the petitioner to retire from service on attaining the age of superannuation and quash the same as illegal and without jurisdiction and direct the third respondent to allow the petitioner to retire from service and to pay D.C.R.G. amount and leave encashment and subsistence allowance for the period from March 2025 to May 2025.”

2. The short facts that led to the filing of the above writ petition are as follows:

(a) The petitioner was appointed as Packer in the 3rd respondent Society on 23.02.1996. He was thereafter promoted as Salesman on 01.08.1997. The



petitioner was entrusted the work of sale of consumer goods to ration cardholders and to maintain sales accounts.

- (b) While so, the second respondent vide his proceedings dated 17.09.2019, ordered enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. It is the contention of the petitioner that 81 Enquiry and the subsequent report, was not in accordance with the Rules and Acts.
- (c) Based on the enquiry report, a case was registered against the petitioner and the Secretary and they were arrested and later they came out on bail. The petitioner had not been called in connection with his case before the Judicial Magistrate and no charge sheet was filed.
- (d) Subsequently, based on the 81 enquiry, the surcharge proceedings was initiated against the petitioner and 16 others. The surcharge notice dated 05.08.2022 was served on the petitioner. It contained eight count of charge and fixed the surcharge amount of Rs.1,03,28,146/- against the petitioner, and the total surcharge amount against all the 17 persons is Rs.2,34,83,976/-. Thereafter, the surcharge order came to be passed on 02.02.2023. According to the petitioner, the surcharge order passed against him, is totally false and legally unsustainable, on the ground that the petitioner had never served in the 3rd respondent-Society and he only worked as salesman in the P.D.S shop. Challenging the surcharge order, the petitioner was before this Court in W.P.No.27529 of 2023 and the same is pending.



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- (e) While so, the petitioner was issued with charge memo dated 03.10.2023, alleging that the petitioner had forged the official records and involved in sanctioning of loans, waiver of loans, and clerical works relating to making entries in Day Book, Ledgers, etc., In reply, the petitioner had sought for certain documents vide letter dated 16.10.2023. Since there was no response from the 3rd respondent-Society, he filed W.P.No.32673 of 2023 and obtained an order of this Court on 18.01.2024. According to the petitioner, the 3rd respondent had not furnished the same.
- (f) The petitioner would submit that he was suspended from service on 16.03.2023 and during his suspension period, he was not paid the subsistence amount. Therefore, the petitioner had approached this Court in W.P.No.19247 of 2023, and pursuant to the orders of this Court dated 06.11.2023, he was paid the subsistence amount. Thereafter, no subsistence subsistence was paid to the petitioner from 01.03.2025 to 30.06.2025.
- (g) The petitioner had attained the age of superannuation on 30.06.2025. On the very same day, the 3rd respondent had passed the impugned order in and by which, the petitioner was not allowed to retire and only relieved the petitioner from service on the ground that criminal proceedings and surcharge proceedings are pending against the petitioner. Aggrieved by the same, the petitioner is before this Court.



3. The grievance of the petitioner is that though the 3rd respondent had allowed the petitioner to retire from service on the date of his superannuation, however, he was not relieved from service till date. The petitioner would submit that as per the Tamil Nadu Co-operative Societies Act and Rules and the Bye-laws of the Society, the respondents have neither jurisdiction nor power to continue the disciplinary proceedings against the petitioner, after he being relieved from service. Further, the third respondent had withheld the benefits of the petitioner namely Death cum Retirement Gratuity, Earned Leave Encashment and Subsistence Allowance for the period from March 2025 to May 2025. Hence, the petitioner is before this Court to quash the impugned proceedings of the 3rd respondent and to permit him to retire from service and pay him his monetary benefits.

4. No counter has been filed in this case. The contention of the petitioner is that once an employee has retired from service, the employer cannot continue the disciplinary proceedings. In support of his contention, the learned counsel for the petitioner has placed reliance on the judgment of the Full Bench of this Court in ***S.Andiyannan Vs. The Joint Registrar, Co-operative Societies, Madurai*** reported in ***2015(4) CTC 1***. The Full Bench was answering to the legal issues that was referred to them. They are :

(1) *Whether the disciplinary proceedings initiated against an*



employee of a Cooperative Society, governed by the Tamil Nadu Cooperative Societies Act, 1983, could be continued even after retirement of the said Employee?

(2) Whether Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 could be considered as an enabling provision impliedly empowering the Disciplinary Authority to continue the disciplinary proceedings even after the retirement of an employee of a Cooperative Society, governed by the Tamil Nadu Cooperative Societies Act, 1983?”

The first question has been answered in paragraph No.30 of the said judgment, reads as below :

“ 30. Under the Tamil Nadu Cooperative Societies Act, 1983, once an employee retired from service, there could be no authority vested with the employer for continuing any disciplinary proceeding, in the absence of relevant service Rules permitting the employer to continue the disciplinary proceeding. In other words, if there is no service Rules or bye-law of the society empowering the employer to continue the departmental proceeding, the employer, would have no authority to continue the departmental proceeding after the retirement of the employee.”

5. A mere reading of the above would clearly indicate that vide impugned order dated 30.06.2025, the 3rd respondent had not relieved the petitioner from service, which *per se* is without jurisdiction and the same has been passed in the absence of relevant service Rules. Therefore, on this ground, the impugned order is quashed. Since the petitioner has retired on 30.06.2025, the



respondents are directed to relieve the petitioner and also to settle his monetary benefits which he is entitled to as per law, within a period of eight weeks from the date of receipt of a copy of this order.

6. In the light of the above, the writ petition is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

25-03-2026

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

DS

To:

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