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WP No. 10014 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04-03-2026

CORAM

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

**WP No. 10014 of 2024
AND
WMP NO. 11026 OF 2024**

S.Velappan,
S/o.N.Sellappan, No. 81, Pillukurichi, Morasappatti,
Edapadi Taluk, Salem District.

..Petitioner(s)

Vs

1. The Joint Registrar Of Co-operative Societies,
Erode Region, Erode.
2. The Deputy Registrar Of Co-operative Societies,
Erode Circle, Erode.

..Respondent(s)

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the Records of the Charge memo issued by the 2nd respondent in Na.Ka.No. 6446/2022/sa.pa1 dated 24.09.2022 consequential order of suspension in Rc.No. 863/2023/AC, dated 25.04.2023 and not allowing the petitioner to retire from service in Rc.no. 863/2023/ac dated 28.04.2023 on the file of the 1st Respondent and quash the same and direct the 1st respondent to allow the petitioner to retire from service and pay all monetary benefits, monthly pension with statutory interest @ 10 percentage per annum from the date of superannuation till payment



For Petitioner(s): Mr.M.S.Palaniswamy

For Respondent(s): Mr.Tamil Vendam, GA.

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ORDER

This Writ Petition has been filed for the following reliefs:-

“calling for the Records of the Charge memo issued by the 2nd respondent in Na.Ka.No. 6446/2022/sa.pa1 dated 24.09.2022 consequential order of suspension in Rc.No. 863/2023/AC, dated 25.04.2023 and not allowing the petitioner to retire from service in Rc.no. 863/2023/ac dated 28.04.2023 on the file of the 1st Respondent and quash the same and direct the 1st respondent to allow the petitioner to retire from service and pay all monetary benefits, monthly pension with statutory interest @ 10 percentage per annum from the date of superannuation till payment.”

2. It is the case of the petitioner that he had joined the services of the Cooperative Department on 16.12.1985 as a Junior Inspector and was promoted to the post of Senior Inspector in the year 1988. Thereafter, on 21.09.2011 he became a Cooperative Sub-Registrar. The petitioner was to attain superannuation on 30.04.2024.

3. The petitioner would submit that while he was working as a Cooperative Sub Registrar under the control of the 2nd respondent, the 1st respondent had deputed him on foreign services as a Special Officer, Additional



Charge in the PE62, Tamil Nadu Cooperative Textile Processing Mill Employees Cooperative Thrift and Credit Society Limited, Erode. This additional charge was held by him from 04.12.2007 to 20.09.2011. 10 years after he had been relieved from the said Society, the Registrar of Cooperative Society had ordered an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act (hereinafter referred to as the “Act”) regarding the issuance of loans to persons between the period 01.04.2010 to 31.10.2016. The enquiry officer had conducted the enquiry behind the petitioner’s back and submitted her enquiry report on 23.03.2023. On the basis of this enquiry report, the 2nd respondent had issued a charge memo under Section 17(b) of the Tamilnadu Civil Services (Discipline & Appeal) Rules (hereinafter referred to as the “Rules”) on 24.09.2022. The charge against the petitioner was that while he was working as a Special Officer in the aforesaid society, the Secretary of the Society had committed irregularities and had issued loans to persons without discharging the earlier loans and that the petitioner as the Special Officer had not supervised the loan files.

4. Pending the charge memo, the 2nd respondent simultaneously issued a surcharge notice under Section 87 of the Act dated 10.11.2022 based on the enquiry report under Section 81 of the Act and directed the petitioner to submit his explanation within a period of 15 days.



5. It is the contention of the petitioner that the surcharge notice dated 10.11.2022 is barred by limitation and therefore he had challenged the same by filing W.P. No. 32549 of 2022. In the said writ petition, an order of interim stay of all further proceedings was granted on 12.12.2022, and the said writ petition is still pending disposal.

6. Meanwhile, the petitioner was shocked to receive the proceedings dated 28.04.2023 from the 1st respondent suspending him from service by invoking Rule 17(c) of the Rules on the ground that the criminal offence is under investigation and a surcharge case under Section 87 of the Act is pending. Three days later, the 1st respondent had passed another order invoking Section 56(1)(c) of the Fundamental Rules not permitting the petitioner to retire from service on 30.04.2023 until the criminal investigation/trial concluded. The order in question is per se illegal, as the 1st respondent has falsely stated therein that a criminal case is pending against the petitioner.

7. Pending the writ petition (W.P. No. 32549 of 2022) in which the petitioner had challenged the enquiry report dated 10.11.2022 issued under Section 81 of the Act, the 1st respondent hastily appointed an Enquiry Officer, conducted an enquiry, and issued an antedated show cause notice dated



24.04.2023 based on the findings of the Enquiry Officer dated 20.04.2023. After receipt of the said show cause notice, the petitioner had submitted a representation to the 1st respondent requesting that copies of the documents referred to in the enquiry report be furnished so as to enable him to submit his explanation. However, the same has not been furnished to the petitioner to date, for reasons best known to the 1st respondent and with an ulterior motive, the 1st respondent had issued a charge memo after an inordinate delay of 12 years.

8. The petitioner would further submit that, since he had not been paid his terminal benefits, he filed W.P. No. 31774 of 2023 seeking a writ of mandamus directing the 1st respondent to pay his eligible retirement benefits. This Court by order dated 06.11.2023 directed the 1st respondent to consider the petitioner's representation dated 03.10.2023 and pass order within a period of 8 weeks. On 18.01.2024, the respondent without notice or enquiry rejected the claim of the petitioner. In these circumstances, the petitioner has filed the above Writ Petition for the relief stated supra.

9. Mr. M.S. Palaniswamy, learned counsel appearing on behalf of the petitioner, would submit that, while the present writ petition is pending, the petitioner has been served with an order dated 04.12.2025 stating that, in light



of the omission of F.R. 56(1)(c) vide G.O. Ms. No. 47 dated 29.08.2025, the petitioner is deemed to have retired from service with effect from the date of his superannuation, i.e., on the afternoon of 30.04.2023, and that the disciplinary proceedings pending against him would be continued under Rule 9 of the Tamil Nadu Pension Rules, 1978 (herein after referred to as the “Pension Rules”).

10. The learned counsel for the petitioner would submit that the said action of the 1st respondent is per se contrary to the Pension Rules. Rule 9(2)(b) of the Pension Rules clearly provides that departmental proceedings cannot be instituted in respect of an event which has taken place more than four years prior to such institution. The date of institution of the departmental proceedings is the date on which the statement of charges is issued. Therefore, if the same is taken into account, the disciplinary proceedings initiated against the petitioner under Rule 9 of the Pension Rules cannot be sustained. In this regard, he would also rely upon the judgment of the Division Bench in W.P. (MD) No. 30511 of 2024 dated 14.10.2025.

11. In the light of the subsequent order dated 04.12.2025, this Court is not proceeding to extract the details of the counter affidavit filed by the 1st respondent.



12. Heard the learned counsel on either side and perused the records.

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13. Admittedly, departmental proceedings were instituted against the petitioner and the charge memo was issued to him only on 24.09.2022 in respect of the alleged irregularities that had taken place between 04.12.2007 and 20.09.2011.

14. Rule 9(2)(b) of the Pension Rules would read as follows:-

“9. Right of competent authority to withhold or withdraw pension:

(1)....

(2)(a)....

(2)(b) The departmental proceedings, if not instituted while the Government servant was in service, whether before his retirement or during his reemployment. (i) shall not be instituted save with the sanction of the Government (in respect of pensioners who belonged to State Service) (ii) shall not be in respect of any event which took place more than four years before such institution; and (iii) shall be conducted by such authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.”

15. A reading of above would clearly indicate that where departmental proceedings have not been instituted while the Government servant was in



service, whether before his retirement or during his re-employment, such proceedings cannot be instituted under the following circumstances:-

a. Without the prior sanction of the Government, in the case of pensioner belonging to the State service.

b. In respect of an event which has taken place more than four years prior to the institution of such proceedings.

16. In the instant case, the charge memo was issued to the petitioner only on 24.09.2022 in respect of the alleged irregularities that had taken place between 04.12.2007 and 20.09.2011. Therefore, the respondents are precluded from going ahead with the departmental proceedings.

17. Further, the Division Bench of this Court in W.P. (MD) No. 30511 of 2024 dated 14.10.2025 had observed as follows:-

“9. A fair and logical reading of the aforesaid Rule reveals that the departmental proceedings, if not instituted while the Government servant was in service – whether before his retirement or during his re-employment, then it shall not be instituted (i) save with the sanction of the Government; and (ii) in respect of any event which took place more than four years before such institution. It also incorporates the condition that it shall be conducted by such



authority and in such place as the Government may direct and in accordance with the procedure applicable to departmental proceedings in which an order of dismissal from service could be made in relation to the Government servant during his service.”

18. Therefore, in the light of the above discussions, the Writ Petition is disposed of with the following directions:-

(i) The impugned orders passed by the 1st respondent are set aside.

ii) Since the petitioner has been permitted to retire from service with effect from 30.04.2023 (afternoon), vide proceedings of the 1st respondent dated 04.12.2025, he shall be paid all eligible monetary and attendant benefits, along with statutory interest at the rate of 10% per annum from the date of retirement till the actual disbursement of the same, forthwith.

19. No costs. Consequently, the connected Miscellaneous Petition is closed.

04-03-2026

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



To

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Erode Region, Erode.
2. The Deputy Registrar Of Co-operative Societies,
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