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W.P. Nos.27668/2024, etc.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
04.02.2026	17.02.2026

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

**W.P. NO. 27668 OF 2024
W.P. NOS. 3901, 7574 & 34518 OF 2025
AND
W.M.P. NOS. 3091, 4318 & 8481 OF 2025**

W.P. No.27668 of 2024

S.M.Syed Nazeer

.. Petitioner

- Vs -

1. The Joint Registrar of Co-operative Societies/Chairman, Common Cadre Committee, Krishnagiri Region
Krishnagiri.
2. K.K.96, Mottur Primary Agricultural Co-operative Credit Society Ltd.
Rep. By its Administrator
Mottur, Kaveripattinam
Krishnagiri District.

.. Respondents

W.P. No.3901 of 2025

D.Saravanan

.. Petitioner

- Vs -



W.P. Nos.27668/2024, etc.

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1. The Joint Registrar of Co-operative Societies/Chairman, Common Cadre Committee, Namakkal Region
Namakkal.
2. K.K.1291, Aniyapuram Tholur Primary Agricultural Co-operative Credit Society Ltd.
Rep. By its Administrator
Aniyapuram, Tholur Post
Mohanur Taluk, Namakkal District.

.. Respondents

W.P. No.7574 of 2025

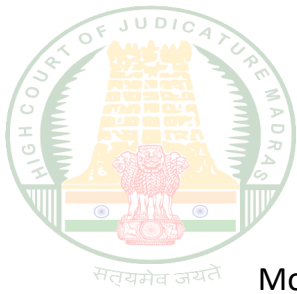
C.Periyasamy

.. Petitioner

- Vs -

1. The Secretary to Government
Department of Co-operative, Food &
Consumer Protection, Fort St. George
Secretariat, Chennai 600 009.
2. The Registrar of Co-operative Societies
No.170, N.V.Natarajan Maaligai
E.V.R.Periyar Road, Kilpauk
Chennai 600 010.
3. Joint Registrar of Co-operative Societies
Erode, Erode District.
4. The Deputy Registrar of Cooperative Societies
Erode Circle, Erode District.
5. The Coperative Sub-Registrar/Administrator
P.E.65, Modakkurichi Circle Teachers &
Public Servants Cooperative Thrift and
Credit Society, No.7, Kootturavu Poonga

2



W.P. Nos.27668/2024, etc.

Modakkurichi, Erode District 638 104.

.. Respondents

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W.P. No.34518 of 2025

K.Venkatesan

.. Petitioner

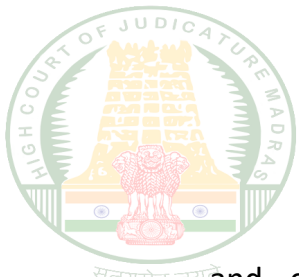
- Vs -

1. The Joint Registrar of Co-operative Societies, Tiruvannamalai Region
Thiruvannamalai District.
2. The Administrator
H.H.509, Arapakkam Primary Agricultural
Co-operative Credit Society Ltd.
Arapakkam (Tk.)
Thiruvannamalai Dt.

.. Respondents

W.P. No.27688 of 2024 filed under Article 226 of the Constitution of India praying this Court to issue a writ of mandamus forbearing the 1st respondent from continuing the disciplinary proceedings against the petitioner pursuant to the charge memo in Na.Ka.No.559/2020/po.pa.ne.thi. dated 21.09.2020 and consequential enquiry notice issued by 1st respondent in Na.Ka. No.559/2020 po.pa.ni.thi dated 28.08.2024 and settle the petitioner's service benefits of Rs.24,44,761/- with statutory interest at the rate of 10% for delayed payments.

W.P. No.3901 of 2025 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the charge memo in Na.Ka.No.2880/2021 thovesa dated 08.06.2023



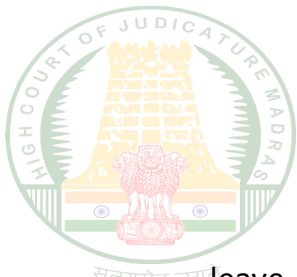
W.P. Nos.27668/2024, etc.

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and consequential order so far as withholding my service benefits in Na.Ka.No.2880/2021/Tho vas a(1) dated 30.06.2023 on the file of the 1st respondent quash the same and direct the respondents to allow the petitioner to retire from service and pay all service benefits including increment for 4 years with statutory interest for delayed payment at the rate of 15% p.a.

W.P. No.7574 of 2025 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records of the 5th respondent/disciplinary authority in Na.Ka.01/2018/Se dated 24.06.2024 imposing penalty of Rs.4,473/- rejecting the domestic enquiry officer's report exonerating the petitioner and quash the same as illegal and without jurisdiction, in view of the 5th respondent/disciplinary authority's order in Na.Ka.01/O.Na(2), dated 16.12.2022 permitting the petitioner to retire from service and in line with the Full Bench decision of this Hon'ble Court reported in 2015 (4) CTC 1 in S.Andiyannan – Vs – The Joint Registrar of Co-operative Societies.

W.P. No.34518 of 2025 filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the records of the charg memo issued by the 2nd respondent in Na.Ka.01/2025 dated 22.02.2025 (received on 02.05.2025) quash the same and consequently direct the respondents to pay retirement benefits of the petitioner, namely, Gratuity and



W.P. Nos.27668/2024, etc.

leave encashment totalling a sum of Rs.11,62,632/- with 12% interest from the date of retirement till the payment.

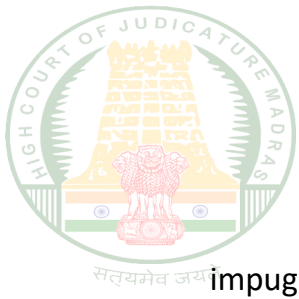
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For Petitioners : Mr. M.S.Palanisamy in
WP 27668/24 & 3901/25
Mr.Sathiaseelan in WP 7574/25
Mr. L.P.Shanmugasundaram in
WP 34518/25

For Respondents : Mr. Geetha Thamaraiselvan,
Spl.GP for R-1 in WP 27668/24,
3901/25 & for RR-1 to 4 in WP
7574/25
Mr. S.Ravikumar, Spl. GP for R-1
in WP 34518/25
Mr. K.H.Ravikumar for R-2 in WP
27668/24
Mr. R.Malaichamy for R-2 in WP
3901/25
Mr. C.K.Chandrasekaran for R-5
in WP 7574/25
Mr. V.Jayaprakash for R-2 in WP
34518/25

COMMON ORDER

W.P. No.27668/24 has been filed to forbear the 1st respondent from continuing the disciplinary proceedings with a further plea to settle the petitioners statutory service benefits along with interest; W.P. No.3901/25 has been filed to quash the charge memo and for a consequential direction to the respondents to retire the petitioner from service and pay the service benefits to the petitioner upon retirement; W.P. No.7574/25 has been filed to quash the



W.P. Nos.27668/2024, etc.

WEB COPY

impugned order imposing penalty by rejecting the enquiry officer's report of exoneration of the petitioner in view of the order of the disciplinary authority permitting the petitioner to retire from service and W.P. No.34518/25 has been filed praying to quash the charge memo and consequently to direct the respondents to pay the retirements benefits to the petitioner along with interest from the date of retirement till the date of payment.

2. The short point that falls for consideration of this Court is as to whether after permitting an employee to retire from service, disciplinary proceedings could be initiated/could be continued against an employee. To answer the aforesaid plea, the petitioners place reliance on the decision of the Full Bench of this Court in ***S.Andiyannan & Ors. – Vs – Joint Registrar of Co-operative Societies & Ors. (2015 (3) LW 513)***, wherein, the Full Bench, on a reference placed before it, had answered the reference in the following lines :-

“This Reference has been made to this Larger Bench of Three Judges by the Hon’ble The Chief Justice to answer the following questions of law :-

“1) Whether the disciplinary proceedings initiated against an employee of a co-operative society governed by the Tamil Nadu Co-operative Societies Act, 1983, could be continued even after retirement of the said employee.



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W.P. Nos.27668/2024, etc.

2. *Whether Section 87 of the Tamil Nadu Co-operative 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 co-operative society, governed by the Tamil Nadu Co-operative Societies Act, 1983.*

* * * * *

29. Answer to the first question referred to this Bench:

Under the Tamil Nadu Co-operative 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.

Answer to the second question referred to this Bench:

As contemplated under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, the term 'surcharge' is not penal in nature, hence if there is admission with regard to the loss caused by the employee or the same is established by the co-operative institution, based on the proceeding already initiated for surcharge, the same could be recovered in the manner known to law. However, the provision relating to surcharge under Section 87 of the Act is not impliedly empowering the disciplinary authority to continue any disciplinary proceeding



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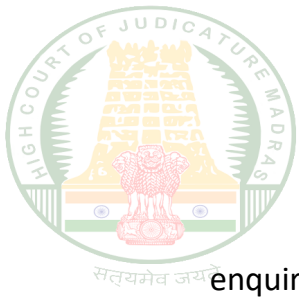


W.P. Nos.27668/2024, etc.

against an employee, who retired from service, in the absence of any Service Rules or Bye-law. Hence, Section 87 of the said Act cannot be construed as an enabling provision or impliedly empowering provision to the employer to continue any disciplinary proceeding after the retirement of any employee, in the absence of any Service Rules.”

3. The facts as narrated in the different writ petitions with regard to the service particulars of the petitioners, viz., from the date of their appointment to the date of their retirement is not in dispute and, therefore, the individual service details are not spelt out elaborately. Suffice to state that the whole issue revolves around the legality of the act of the respondents in either continuing the petitioners in service or withholding of their terminal benefits upon superannuating them by continuing the disciplinary proceedings, which is to be tested as to its permissibility for continuance.

4. The main ground on which the impugned orders are assailed by the respective learned counsel appearing for the petitioners and relief of payment of terminal benefits along with interest is sought for is predicated on the order of the Full Bench in *Andiyappan case (supra)*, where, the Full Bench has held that only if the service rules and the by-laws permit continuance of the disciplinary



W.P. Nos.27668/2024, etc.

WEB COPY

enquiry which had been initiated when the employee was in service, the same could be proceeded with and in the absence of any enabling provision for continuance of disciplinary enquiry in the service rules and the by-laws, the disciplinary proceedings, if any, pending against an employee, could not be continued upon the superannuation/retirement of an employee. The Full Bench further held that the Section 87 of the Tamil Nadu Cooperative Societies Act is not an enabling provision, which would empower the disciplinary authority to continue the disciplinary proceedings even after the retirement of the employee. On the strength of the said decision, the present writ petitions have been filed contending that the disciplinary proceedings cannot be continued against the petitioners as there is no provision, which permits the continuance of the disciplinary proceedings upon the retirement of the petitioners.

5. Per contra, learned counsel appearing for the respondents submit that both the service rules as well as the by-laws of the respective society provide for continuance of the disciplinary proceeding after the retirement of an employee, provided that a stipulation is contained in the retirement order of the employee with regard to continuance of disciplinary proceedings. In this regard, attention of this Court is drawn to G.O. Ms. No.14, Co-operation, Food and Consumer



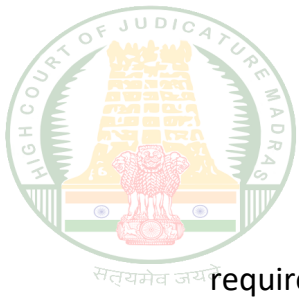
W.P. Nos.27668/2024, etc.

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Protection (CN1) Dept., dated 12.02.2019 permitting the co-operative societies to frame rules and based on which the Tamil Nadu Primary Agricultural Cooperative Credit Societies Common Cadre Service Rules, 2019 which provides for continuance of disciplinary proceedings after retirement based on which by-laws were also framed by the respective societies providing for continuance of disciplinary proceedings post-retirement. It is therefore the submission of the learned counsel that the relieving order upon retirement of the respective employees had provided for a saving clause for continuing the disciplinary proceedings and, therefore, the continuance of the disciplinary proceedings against the petitioners and the consequential withholding of the terminal benefits of the petitioners cannot be found fault with and, accordingly, prays for dismissal of the writ petitions.

6. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record as also the service rules and the by-laws of the societies.

7. Before proceeding to analyse the legal issue involved in the present writ petitions, the decision of the Full Bench of this Court in *Andiyappan case (supra)*



W.P. Nos.27668/2024, etc.

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requires to be adverted to, as therein, the Full Bench has spelt out the circumstances under which disciplinary proceedings could be continued against an employee. The relevant portion of the said decision is quoted hereunder :-

24. In this regard, both the learned counsel referred Section 87 of the Act, relating to surcharge towards deciding the second question referred to this Bench. At this juncture, we find it relevant to extract Section 87 of the Act, which reads as follows:

"87. Surcharge (1) Where in the course of an audit under Section 80 or an inquiry under Section 81 or an inspection or investigation under Section 82 or inspection of books under Section 83 or the winding-up of a Society, it appears that any person who is or was entrusted with the organisation or management of the Society or any past or present officer or servant of the Society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the Society or has caused any deficiency in the assets of the Society by breach of trust or willful negligence or has made any payment which is not in accordance with this Act, the Rules or the Bye-laws, the Registrar himself or any person specifically authorised by him in this behalf, of his own motion or on the application of the Board, liquidator or any creditor or contributor may frame charges against such person or officer or servant and after giving reasonable



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W.P. Nos.27668/2024, etc.

opportunity to the person concerned and in the case of a deceased person, to the representative who inherits his estate, to answer the charges, make an order requiring him to repay or restore the money or property or any part thereof with interest at such rate as the Registrar or the person authorised as aforesaid thinks just or to contribute such sum to the assets of the Society by way of compensation in respect of the misappropriation, mis-application of funds, fraudulent retainer, breach of trust or willful negligence or payments which are not in accordance with this Act, the Rules or the Bylaws as the Registrar or the person authorised as aforesaid thinks just:

Provided that no action shall be commenced under this sub-section after the expiry of seven years from the date of any act or omission referred to in this sub-section:

Provided further that the action commenced under this sub-section shall be completed within a period of six months from the date of such commencement or such further period or periods as the next higher authority may permit but such extended period or periods shall not exceed six months in the aggregate.

(2) Without prejudice to any other mode of recovery which is being taken or may be taken under this Act or any other law for the time being in force, any sum ordered under this section to be repaid to a registered Society or recovered as a contribution to its



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W.P. Nos.27668/2024, etc.

assets may be recovered as if it were an arrear of land revenue and for the purpose of such recovery the Registrar shall have the powers of a Collector under the Tamil Nadu Revenue Recovery Act, 1864 (Tamil Nadu Act II of 1864).

(3) This section shall apply notwithstanding that such person or officer or servant may have incurred criminal liability by his act.

(4) The Registrar or the person authorised by him shall, when acting under this section, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) reception of evidence on affidavits;

(d) requisitioning any public record from any Court or office;

(e) issuing Commission for examining of witnesses."

25. Mr. Veera Kathiravan, learned counsel appearing for the petitioners, mainly contended that so far as Section 87 relating to Surcharge is concerned, its object is only to recover the amount or loss incurred by the Co-operative Society, with or without interest, if it is established that the same is payable by an employee, however, which is nothing to do with the continuation of departmental proceeding, after the retirement



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W.P. Nos.27668/2024, etc.

of an employee of a co-operative society. According to him, Section 87 of the Act cannot be construed as an enabling provision in favour of the employer to continue the departmental proceeding, after the retirement of an employee of any co-operative society.

26. A bare reading of the said Section would show that it relates to recovery of the amount from any employee or any other person who has caused financial loss to the cooperative society. It is not in dispute that the term "surcharge" need not necessarily related to punishment being imposed on the employee. As contended by the learned counsel appearing for the petitioners, the scope of Section 87 of the Act pertaining to surcharge is to recover the amount from the person, who caused loss to the co-operative society. In the light of the decisions rendered by the Hon'ble Apex Court, it is clear that Section 87 of the Act could not be construed as an enabling provision to the authorities to continue or extent the departmental proceeding after the retirement of an employee. It is well settled in various decisions of the Hon'ble Supreme Court that if the loss caused by any employee is established, in the manner known to law, the employer/co-operative society can recover the amount, by way of surcharge with or without interest, however, surcharge proceeding cannot be initiated against any retired employee.

27. So far as the second legal question is concerned, it is crystal clear that the object of Section 87 of the Act is only to recover the loss caused to any co-operative institution by an employee, if it is established as per procedure known to law.



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W.P. Nos.27668/2024, etc.

Surcharge need not be penal in nature, if the loss caused by him is admitted by the employee or established by the authority against him, that could be recovered by the co-operative society. However, even surcharge proceedings cannot be initiated after the retirement of an employee to recover the same from his retiral benefits.

28. The first legal question referred to this Bench is whether the disciplinary proceedings initiated against an employee of a co-operative society governed by the Tamil Nadu Cooperative Societies Act can be continued even after the retirement of the said employee. The decisions relied on by both the learned counsel have categorically make it clear that the legal position is that the authority could continue the departmental enquiry against retired employee, only subject to applicable statutory Rules or bye-law, which govern the terms and conditions of his service of the employee. Hence, the relevant Rules governing the service conditions of the employee is the determining factor as to whether and in what manner a domestic enquiry can be continued against an employee, who retired after reaching the age of superannuation. Hence, had there been any enquiry initiated while the delinquent employee was in service, it could be continued even after his retirement, subject to the service Rules or bye-law of the co-operative society. If the service Rules relating to the employee permits for continuation, there would be no bar in continuing the departmental proceeding, that was initiated while he was in service, even after his retirement. It is also categorically held by the Hon'ble Supreme



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W.P. Nos.27668/2024, etc.

Court in the latest decisions, that in such circumstances, even if the guilt is proved, there is no possibility of imposing punishment of dismissal or removal from service, as the same is not legally sustainable.

29. Answer to the first question referred to this Bench:

Under the Tamil Nadu Co-operative 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.

Answer to the second question referred to this Bench:

As contemplated under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, the term 'surcharge' is not penal in nature, hence if there is admission with regard to the loss caused by the employee or the same is established by the co-operative institution, based on the proceeding already initiated for surcharge, the same could be recovered in the manner known to law. However, the provision relating to surcharge under Section 87 of the Act is not impliedly empowering the disciplinary authority to continue any disciplinary proceeding against an employee, who retired from service, in the absence of any Service Rules or Bye-law. Hence, Section 87 of the said Act cannot be construed as an enabling provision or impliedly



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W.P. Nos.27668/2024, etc.

empowering provision to the employer to continue any disciplinary proceeding after the retirement of any employee, in the absence of any Service Rules.”

8. From the above proposition of law, laid down in the decision of the Full Bench, it is trite that where there is no explicit Rules and the by-laws of the society also do not provide for the continuance of a departmental enquiry once the employee attains the age of superannuation and is superannuated from service, no disciplinary proceedings could be continued against an employee. However, if the Rules and the by-laws of the society provide for continuance of disciplinary enquiry after the superannuation of an employee with a clear indication in the order permitting the employee to retire from service for continuing the disciplinary proceedings, then the disciplinary proceedings could be continued against an employee. However, this legal position is notwithstanding the fact that such disciplinary proceedings ought to have been initiated prior to the employee superannuating from service and once an employee superannuates from service, no disciplinary proceedings could be taken against an employee as the employer-employee relationship between the two entities ceases. This legal position is not only time-tested, but is bound by logic with which there could be no quarrel.



W.P. Nos.27668/2024, etc.

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9. In exercise of the power conferred by sub-section (1) of Section 180 r/w sub-section (1) of Section 75 of the Tamil Nadu Co-operative Societies Act, Government Order, the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019, (for short 'Rules, 2019') was framed by issuing G.O. Ms. No.14, Co-operation, Food and Consumer Protection (CN1) Dept., dated 12.02.2019. The aforesaid rules pertained to the constitution of Common Cadre Service in the post of Secretary, which post was being held by the petitioners herein.

10. Rule 30 of the said Rules provides for Disciplinary proceedings and clause (i) of sub-rule (1) and sub-rule (7) are material for considering the legal issues and the same are quoted hereunder :-

"30. Disciplinary Proceedings :-

(1) The disciplinary proceedings referred to in sub-rule (4) of rule 29 against a Common Cadre employee shall be conducted with due observance of the principles of natural justice for which it shall be necessary that :-

(i) The Common Cadre Employee shall be served with a charge sheet duly approved by the Common Cadre Authority containing specific charges and mention of grounds in support of each charge and he



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W.P. Nos.27668/2024, etc.

shall be required to submit explanation in respect of the charge within a reasonable time which shall not be less than fifteen (15) days;

* * * * *

(7) Any disciplinary proceedings commenced against the Common Cadre Employees of a Society before the commencement of these rules and still continuing shall as far as may be deemed to have been commenced under these rules and may be continued accordingly.”

11. Even on a bare reading of sub-rule (7) of Rule 30, it is clear that even in respect of disciplinary proceedings, which had commenced against a common cadre employee prior to the coming into the force of the Rules, 2019, the same was permitted to be continued. Therefore, even the proceedings initiated prior to the framing of the Rules stood saved and protected. However, what is material to be noted here, as already pointed out above is that the proceedings ought to have been initiated when the common cadre employee was in service.

12. In the light of the Rules, by-laws have been framed by the respective societies in which the petitioners were functioning in the common cadre post. Chapter VI of the special by-laws relate to Disciplinary Matters of which clause (2)



W.P. Nos.27668/2024, etc.

of Explanation IV relates to the institution and continuance of disciplinary proceedings, which provides as under :-

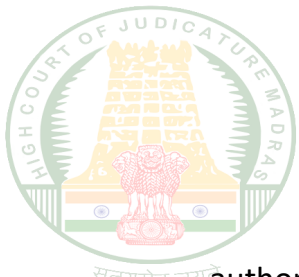
“Explanation IV :-

** * * * **

(2) The disciplinary proceedings instituted against an employee while he was in service, shall be deemed to be proceedings under this special bylaw, even after his retirement, and be continued and concluded by the competent authority in the same manner as if the employee had continued in service. In the event of any such disciplinary proceedings having been initiated and if the society has reason to believe that the disciplinary proceedings will result in the removal or dismissal of the employee from service, the society shall place the employee under suspension. The society also, shall not make payment of the terminal benefits like gratuity, etc., payable to the employee until the disciplinary proceedings are finally concluded.”

(Emphaais Supplied)

13. Clause (2) of Explanation IV is unambiguous, as it clearly provides that the disciplinary proceedings ought to have been initiated against an employee while he was in service and only in such cases, the said proceedings would stand saved under the special by-laws as well as under the Rules and if such a proceeding has been initiated, then it is well within the powers of the competent



W.P. Nos.27668/2024, etc.

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authority to not make payment of the terminal benefits till the finality of the disciplinary proceedings.

14. In fine, it clearly follows that where the disciplinary proceedings is initiated when a common cadre employee was in service, the same could be continued even after the retirement of the said employee and till the disciplinary proceedings attains finality the terminal benefits payable to the employee could be withheld by the employer. The special bylaws are in consonance with Rules, 2019, which also provide for the very same provision. However, the only caveat herein is that the said disciplinary proceedings ought to have been taken against the employee while he was in service and it is continued.

15. In the light of the aforestated legal position, a perusal of the averment of the petitioners in W.P. Nos.27668/2024 and 3901/2025, it is clear that the said petitioners were in the common cadre service on the date when the Rules came into force and also the by-laws were issued. Therefore, there is no embargo for continuing the disciplinary proceedings which were initiated against the said petitioners in the year 2020 and 2023, as the said initiation was much after the

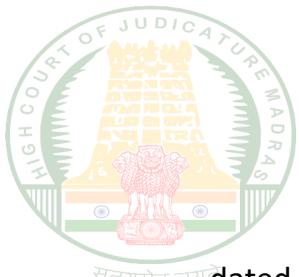


W.P. Nos.27668/2024, etc.

coming into force of the Rules, 2019 and, therefore, the same could be safely
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16. Further, a perusal of the order permitting the petitioners in W.P. Nos.27668/2024 and 3901/2025 to be relieved on superannuation, it clearly reveals that the authority has safeguarded its right to continue the disciplinary proceedings and also for withholding the terminal benefits payable to the said employees, as provided for under clause (2) of Explanation IV, as quoted above. Therefore, the said act of the respondents in continuing the proceedings and withholding the terminal benefits of the said petitioner pending the outcome of the disciplinary proceedings cannot be found fault with and, therefore, the contentions raised to the contra deserves to be rejected.

17. Insofar as W.P. No.7574/2025 is concerned, the proceeding has been initiated against the said petitioner in the year 2015, much before the coming into force of Rules, 2019. The petitioner was due to retire on 31.01.2015, but was kept under suspension vide order dated 30.01.2015 and, thereafter, on 13.11.2018, a charge memo had come to be issued and after conduct of enquiry, the enquiry officer exonerated the petitioner of all the charges vide his report

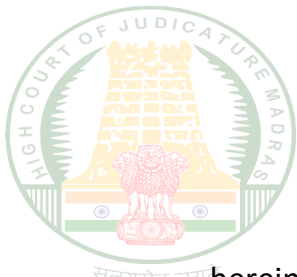


W.P. Nos.27668/2024, etc.

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dated 5.7.2022. However, the disciplinary authority, while revoked the suspension of the petitioner vide order dated 16.12.2022 and permitted the petitioner to retire from service on and from 31.01.2015, however, passed an order imposing a penalty of Rs.4,473/-. The aforesaid act of the respondents is put in issue by submitting that on the date when the petitioner was placed under suspension and further on the date when disciplinary proceedings was initiated by issuing a charge memo, in the absence of any specific rules and bylaws, which provides for the continuance of an employee in service beyond the date of his superannuation, the same cannot be permitted and the said continuance of the service of the petitioner is without jurisdiction and arbitrary.

18. It is to be pointed out that once the continuance of the petitioner in service is arbitrary and perverse, as it is not saved by any rule or bylaw, the imposition of penalty on the petitioner would become grossly illegal, moreso, when the petitioner has been retired from service on the very date when he was due to retire, viz., 31.01.2015 and to that extent the order dated 16.12.2022 passed by the disciplinary authority would have to be held as grossly erroneous. When on the date the petitioner was continued in service, neither was there any rules nor was there any bylaw authorizing the disciplinary authority/respondents



W.P. Nos.27668/2024, etc.

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herein to continue the petitioner in service and, therefore, the said continuance is grossly erroneous and cannot be sustained. Therefore, the impugned order continuing the petitioner in service beyond the date of his superannuation and also inflicting the penalty of Rs.4473/-, is wholly erroneous and the said impugned order deserves to be set aside, which alone would be in line with the Full Bench decision of this Court in *Andiyannan case (supra)*.

19. Turning the attention to the case of the petitioner in W.P. No.34518/2025, it transpires from the record that the due date of superannuation of the petitioner is on 28.02.2025 and the Co-operative Sub Registrar/Administrator of the 2nd respondent, vide his communication dated 18.02.2025 had given a clean chit to the petitioner stating that as on date, as per the audit reports of the society, there is no amount due and receivable from the petitioner and that no enquiry is pending against the petitioner and, therefore, there is no embargo for retiring the petitioner from service.

20. After giving such a letter on 18.02.2025, curiously, the said authority turns back on 22.02.2025 to issue the charge memo of even date, though it is the stand of the petitioner that it was not served on him till his superannuation on



W.P. Nos.27668/2024, etc.

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28.2.2025, on which date, without any demur the petitioner was retired from service and that the said charge memo was served on him only on 1.5.2025, which is impermissible as once the petitioner is superannuated, no proceedings can be taken against the petitioner.

21. However, the said contention is countered by the respondents by filing a counter in which it is mentioned that though the charge memo was served on the petitioner, he had failed to receive the same on 22.2.2025. When a charge memo was allegedly pending against the petitioner, as per the stand of the respondents, this Court is at a loss to understand as to the basis on which the petitioner was relieved from service on superannuation on 28.2.2025, when clause (2) of Explanation IV of the by-laws under Chapter VI clearly provides for keeping the petitioner under suspension. The petitioner has not been kept under suspension; rather he was retired from service and when there is a clear provision, which provides power to the respondents for keeping the petitioner under suspension, what prevailed on the respondents to retire the petitioner from service is not known. When the respondents have retired the petitioner from service, no action in the form of disciplinary proceedings could be taken by the respondents against the petitioner, as there is no provision either in Rules,



W.P. Nos.27668/2024, etc.

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2019 or the special bylaws providing for taking such an action. Even it is the specific case of the respondents that the charge memo was served through registered post on 1.5.2025 as the petitioner failed to receive the same while in service, but no reason is attributed for superannuating the petitioner when it is the specific case of the respondents that charge memo was issued even on 22.2.2025.

22. When a charge memo is pending against the petitioner, alleged to have been issued on 22.2.2025, this Court is at a loss to understand as to how the petitioner was superannuated from service. The only logical inference that could be drawn is that the charge memo had come to be prepared, but back-dated, later in point of time to the superannuation of the petitioner and had, thereafter, been issued to the petitioner through registered post. Such a course is impermissible under Rules, 2019 as also the special bylaws of the society and the said charge memo cannot be allowed to survive and resultantly, the withholding of the terminal benefits pointing out the pendency of the above charge memo cannot be sustained, moreso, the said charges do not involve corruption or moral turpitude, but could only be labeled as procedural lapses, which could be cured by the respondents at any point of time. Therefore, for procedural lapses,



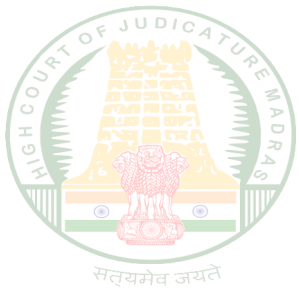
W.P. Nos.27668/2024, etc.

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withholding the terminal benefits of the petitioner, that too by issuance of a charge memo, which cannot stand the test of legal scrutiny, the same deserves to be set aside, as the said case would squarely attract the decision of the Full Bench in *Andiyappan case (supra)*.

23. For the reasons aforesaid, the following order is passed :-

- i) *W.P. Nos.27668/24 and 3901/2025 are dismissed; W.P. Nos.7574 and 34518/2025 are allowed.*
- ii) *The order impugned in W.P. No.7574/2025 is quashed and the respondents are directed to refund the amount of penalty imposed on the petitioner, if the same has already been paid and pay any other dues and other terminal benefits payable to the petitioner within a period of four weeks from the date of receipt of a copy of this order.*
- iii) *Further, the respondents are directed to pay the terminal benefits due and payable to the petitioner in W.P. No.34518/25 within a period of four weeks from the date of receipt of a copy of this order.*
- iv) *If the terminal benefits are not paid to the respective petitioners aforesaid and also the amount of penalty imposed is not refunded to the petitioner within the time prescribed above, the respondents would be required to pay statutory interest at the rates*



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W.P. Nos.27668/2024, etc.

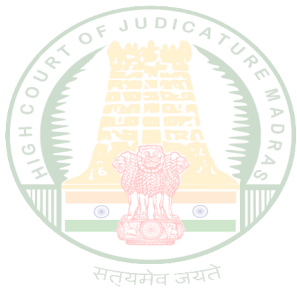
prescribed for the aforesaid posts from the date of superannuation of the petitioners till the date of payment.

- v) *Insofar as the disciplinary proceedings pending against the petitioners in W.P. Nos.27668/24 and 3901/2025, the respondents are directed to complete the same and pass appropriate orders within a period of six months from the date of receipt of a copy of this order.*
- vi) *Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.*

17.02.2026

Index : Yes / No

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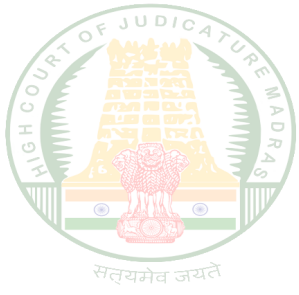


W.P. Nos.27668/2024, etc.

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To

1. The Joint Registrar of Co-operative Societies/Chairman, Common Cadre Committee, Krishnagiri Region
Krishnagiri.
2. The Joint Registrar of Co-operative Societies/Chairman, Common Cadre Committee, Namakkal Region
Namakkal.
3. The Secretary to Government
Department of Co-operative, Food & Consumer Protection, Fort St. George Secretariat, Chennai 600 009.
4. The Registrar of Co-operative Societies
No.170, N.V.Natarajan Maaligai
E.V.R.Periyar Road, Kilpauk
Chennai 600 010.
5. Joint Registrar of Co-operative Societies
Erode, Erode District.
6. The Deputy Registrar of Cooperative Societies
Erode Circle, Erode District.
7. The Joint Registrar of Co-operative Societies, Tiruvannamalai Region
Thiruvannamalai District.



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W.P. Nos.27668/2024, etc.

M.DHANDAPANI, J.

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**PRE-DELIVERY ORDER IN
W.P. NO. 27668 OF 2024
W.P. NOS. 3901, 7574
& 34518 OF 2025**

**Pronounced on
17.02.2026**