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WP No. 25261 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2026

CORAM

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

WP No. 25261 of 2025

AND

WMP NO. 28433 OF 2025

J.K.Vijayakumar
S/o J. Krishnan
Plot No 4, Door No 512, Gowtham Street,
Chadrapuram 2nd Unaimancherry Village
Chennai - 600 127.

...Petitioner

Vs

1. The Deputy Registrar of Co-operatives Societies Credit,
Chennai Region
WAWO Building 4th Floor, Chennai.

2. The Life Insurance Corporation Employees
Co-operative Bank Limited
Rep by its Administrator,
No,8 United India Building
Esplanade Road, Chennai - 600 018.

...Respondents

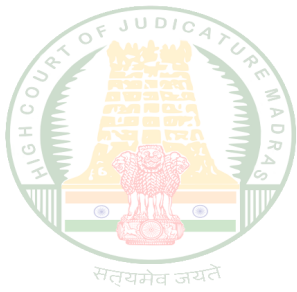
PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to pay the petitioner's terminal benefits viz., Gratuity of Rs.18,24,663/-; Provident Fund of Rs.3,44,068/-; Leave Salary of Rs.8,92,712/-; Family Welfare Deposit of Rs.31,740/-; and Security Deposit of Rs.10,000/- totally of Rs.31,03,183/- with statutory interest at the rate 15 percent p.a. and pass orders.

For Petitioner:

Mr.M.S.Palaniswamy

For Respondents:

Mr.K.Tamil Vendan for R1
R2 – Served [No appearance]



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ORDER

The writ petition has been filed seeking the following relief :

“ To issue a Writ of Mandamus directing the respondents to pay the petitioner’s terminal benefits viz., Gratuity of Rs.18,24,663/-; Provident Fund of Rs.3,44,068/-; Leave Salary of Rs.8,92,712/-; Family Welfare Deposit of Rs.31,740/-; and Security Deposit of Rs.10,000/- totally of Rs.31,03,183/- with statutory interest at the rate 15 percent per annum.”

2. The facts of the case that has been set out by the petitioner in the affidavit are as follows :

- (a) The petitioner was employed in the 2nd respondent-Co-operative Bank as Assistant on 06.03.1995. Subsequently, he was promoted to the post of Assistant Manager on 01.08.2013 and thereafter, as Manager of the Bank on 01.06.2017.
- (b) While he was working as Manager in the 2nd respondent Bank, the 1st respondent had ordered enquiry on 01.03.2023 under Section 81 of the Tamil Nadu Co-operative Societies Act, alleging non-recovery of time barred loans. Based on the enquiry report dated 07.08.2023, the 1st respondent had issued surcharge notice on 03.11.2023, against the petitioner and 30 others.
- (c) On receipt of surcharge notice, the petitioner had requested the



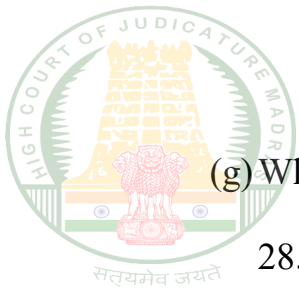
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respondent to furnish certain documents. However, the 1st respondent without furnishing the documents and without following the procedure contemplated under Section 87(4) of the Tamil Nadu Co-operative Societies Act, had proceeded to issue surcharge enquiry.

(d) Challenging the surcharge notice, the petitioner had filed W.P.No.9544 of 2022 and this Court had ordered notice to the respondents and adjourned the case to 29.04.2024. Pending the writ petition, the 1st respondent hastily passed an ante dated surcharge order dated 30.04.2024, and the same was served on the petitioner only on 22.11.2024.

(e) Aggrieved by the surcharge order dated 30.04.2024, the petitioner preferred an appeal before the Chief Small Causes Court Co-operative Tribunal, Chennai, in C.M.A.No.5/2025 along with a stay application in C.M.P.No.1 of 2025. The Co-operative Tribunal had dismissed the stay application in C.M.P.No.1 of 2025. This dismissal was challenged by the petitioner before this Court in C.R.P.No.1215 of 2025, and had obtained an order of stay of further proceedings of the 1st respondent's surcharge order dated 30.04.2024, and the revision petition is pending on its file.

(f) In the meantime, based on the enquiry report, a charge memo was issued by the 2nd respondent on 31.07.2024, to which, the petitioner had submitted his explanation on 23.08.2024, denying the charges. Despite the same, the final order has been passed by the respondent, in and by which, it imposed the punishment of reduction of one month basic scale pay.



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(g) While so, the petitioner had attained the age of superannuation on 28.02.2025. Though he was relieved from service on 28.02.2025 without prejudice to the surcharge, he was not permitted to retire. The petitioner was not paid his terminal benefits, except his Provident Fund Contribution and Additional Contribution amount, citing the surcharge proceedings are pending against the petitioner. Aggrieved by the same, the petitioner is before this Court.

3. The contention of the petitioner is that since he was relieved from the services of the 2nd respondent Bank, there exists no employee and employer relationship among them. Further, the respondents have no power to withheld the retirement benefits of the petitioner and to recover the surcharge amount from his retirement benefits. Hence, he seeks a mandamus to settle his retirement benefits as stated supra along with interest at the rate of 15% per annum.

4. Heard the learned counsel for the petitioner and also perused the materials placed on record.

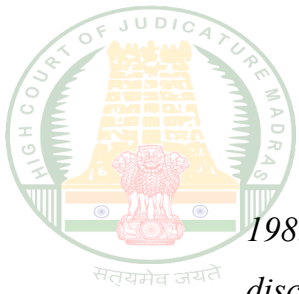
5. The records would show that the petitioner was employed in the 2nd respondent-Co-operative Bank as Assistant on 06.03.1995 and by subsequent



orders, he was promoted to the post of Assistant Manager on 01.08.2013 and as Manager on 01.06.2017. Further, the impugned order reveals that though the petitioner was permitted to retire on 28.02.2025 from service, he has not been paid his terminal benefits citing the pendency of the surcharge proceedings. The allegation against the petitioner is that he has not taken steps to recover the time barred debts. This was considered by this Court in C.R.P.(PD) No.1215 of 2025, a revision filed by the petitioner challenging the dismissal order passed by Chief Small Causes Court Co-operative Tribunal, Chennai, in the stay application in C.M.P.No.1 of 2025 in C.M.A.No.5/2025. This Court in the revision petition has taken note of the fact that the surcharge order did not grant an opportunity to the petitioner to cross-examine the witnesses, besides, the Enquiry Officer has also observed that the Board of Directors and the staff members of the Bank had not taken steps to recover the loans..

6. The Full Bench of Madurai Bench of this Court in the judgment in ***S.Andiyannan Vs The Joint Registrar, Co-operative Societies, Madurai and another*** reported in [2015 Writ L.R.755] was answering the following reference:

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



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?” —

The Full Bench after referring to the position of law as well the judgments in this regard, had answered the reference.

7.1 With regard to second question, the same has been answered in Paragraph No.28 of the said judgment, which reads as follows :

“ 28. 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. 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.” —

7.2 The first legal question was answered as follows :

“ 29. 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 here 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



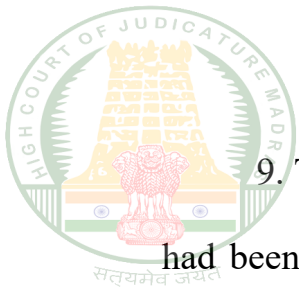
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to the employee permits for continuation, there would be no bar in continuing the departmental proceedings, that was initiated while he was in service, even after his retirement. It is also categorically held by the Hon'ble Supreme Court in the latest 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.” _

8. The Division Bench of this Court in W.A.Nos.663 and 668 of 2015, has observed as follows :

“ 7. The appellants kept the surcharge pending for years together. Nothing prevented the appellants from taking early action for disposal of the surcharge proceedings. The learned Single Judge allowed the writ petitioner by a common order dated 28.10.2014. The appeal was filed in 2015. Even though more than three years have been passed since passing the order by the learned single Judge, still, there is no progress in the surcharge proceedings. Even now the proceedings are stated to be in the notice stage.”

8. The employee must be in a position to enjoy the benefits consequent to his retirement. The payment of Gratuity is not a matter of charity. It is the entitlement of the employee to receive the gratuity. There should be a valid reason to detain the payment of statutory benefits. We are therefore of the view that the appellants were not justified in keeping the benefits under the pretext that surcharge proceedings were pending. We therefore confirm the order passed by the learned single Judge.”



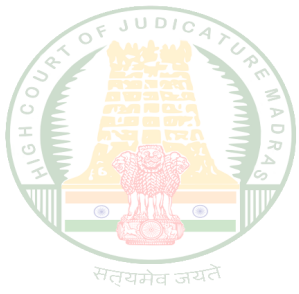
9. The above Division Bench judgment in W.A.Nos.663 and 668 of 2015, had been relied by another Division Bench of this Court in W.A. No.1466 of 2015 [***The Registrar of Co-operative Societies, Chennai Vs. A.Sengodan***], where the Bench has observed as follows in paragraph No.6:

“6. We are in agreement with the reasoning of the Writ Court that in the absence of an enabling statutory provision, it would not be permissible for the employer to withhold the terminal benefits of a retired employee. This view is fortified by the decision of the Division Bench of this Court in Joint Registrar of Co-operative Societies -vs- K. Ambarayan (Judgment dated 11.04.2018 in W.A. Nos. 663 and 668 of 2015), in which, one of us (K.K. Sasidharan, J) is a party. The eligible amount of terminal benefits shall be disbursed to the Petitioner under written acknowledgment and a report of compliance shall be filed before the Registrar (Judicial) of this Court by 15.03.2019. “

10. Further, in a more recent judgment of this Court in W.A.No.3421 of 2024 [***K.Gnanavel Vs. The Chairman Common Cadre Committee / Joint Registrar of Co-operative Societies & another***], the Division Bench has considered the issue whether the writ petitioner was entitled to statutory interest under the Payment of Gratuity Act, 1972, as well as the reasonable interest for the belated payment of the Leave Salary, pending the disciplinary proceedings. The Bench had passed the following directions after allowing the writ appeal :

“7. In that view of the matter, we are inclined to allow this writ appeal to the following effect:

(i) There shall be a direction to the respondent



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Department to calculate the interest at the rate of 15% for payment of Gratuity from the date of superannuation till the date of payment and also to calculate the interest for Leave Salary at the rate of 6% from the date of due till the date of payment and such an interest amount shall be calculated and be paid to the appellant/writ petitioner by the respondent Department within a period of eight weeks from the date of receipt of a copy of this order.”

11. Therefore, from the above judgments, it is clear that surcharge proceedings can be continued if the service rules permit the same.

12. It is also brought to the notice of the Court that the appeal filed against the surcharge proceedings has gone against the petitioner and the petitioner has filed a revision to challenge the said order. Be that as it may, it is well open to the Society to recover the surcharge amounts by resorting to the Revenue Recovery proceedings and it is not that the respondents are remediless. Therefore, in the light of the judgments referred supra, the petitioner is entitled to his terminal benefits, which shall be disbursed by the respondents within a period of eight weeks from the date of receipt of a copy of this order.

13. Coming to the issue on interest of the terminal benefits, the petitioner is entitled to statutory interest of 10% towards Gratuity as per Section 7(3A) of the Payment of Gratuity Act. However, insofar as other terminal benefits are



concerned, the respondents are directed to pay interest as per the bank rate prevailing at the time of disbursal.

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14. With the above directions, the writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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Index: Yes/No

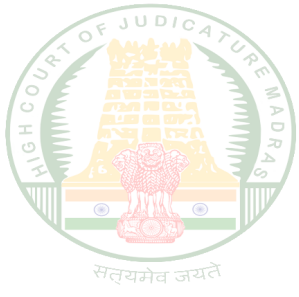
Speaking/Non-speaking order

Neutral Citation: Yes/No

DS

To:

1. The Deputy Registrar of Co-operatives Societies Credit,
Chennai Region
WAWO Building 4th Floor, Chennai.
2. The Administrator
Life Insurance Corporation Employees
Co-operative Bank Limited
No,8 United India Building
Esplanade Road, Chennai - 600 018.



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