



W.A(MD)No.255 of 2026

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2026

CORAM:

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN**

**W.A(MD)No.255 of 2026
and
C.M.P(MD)No.2742 of 2026**

S.Johnson

... Appellant

VS.

- 1.The Joint Registrar of Co-operative Societies/
Common Cadre Authority,
O/o.The Joint Registrar of Co-operative Societies,
Government Multistoried Building,
Kaajamalai, Tiruchirappalli.
- 2.The Deputy Registrar of Co-operative Societies,
O/o.The Deputy Registrar of Co-operative Societies,
Tiruchirappalli Circle,
Tiruchirappalli.
- 3.The Administrator,
R.1589, Uyyakondan Thirumalai Primary
Agricultural Co-operative Credit Society,
Nachikurichi Village,
Somarasampettai Post,
Srirangam Taluk,
Tiruchirappalli District.



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4.The Administrator,
R.115, Somarasampettai Primary
Agricultural Co-operative Credit Society,
Somarasampettai,
Srirangam Taluk,
Tiruchirappalli District.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P(MD)No.21673/2024, dated 09.12.2024.

For Appellant : Mr.D.Shanmugaraja Sethupathi

For R1 & R2 : Mr.P.T.Thiraviam
Government Advocate

For R3 : Mr.C.Jeganathan

JUDGMENT

(Order of the Court was made by N.SATHISH KUMAR, J.)

The present Writ Appeal has been preferred by the writ petitioner challenging the portion of the order passed in W.P.(MD) No.21673 of 2024, dated 09.12.2024.

2. The appellant had filed the writ petition in W.P(MD)No.21673 of 2024 challenging the charge memo dated 02.04.2024. The appellant was issued with



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the said charge memo on 02.04.2024 and when he was about to attain the age of superannuation, by the impugned order dated 31.07.2024, he was not permitted to retire and was retained in service in view of the pendency of the disciplinary proceedings pursuant to the charge memo as well as the unsatisfied award passed under Section 87 of the Tamil Nadu Co-operative Societies Act.

3. The learned Single Judge, upon finding that the appellant, being a Secretary of a Co-operative Society, is governed by the Tamil Nadu Primary Agriculture Co-operative Society Common Cadre Service Rules, 2019, and that there is no specific provision under the said Rules enabling continuation of disciplinary proceedings beyond the date of retirement or permitting retention in service after attaining the age of superannuation, quashed the charge memo. However, while allowing the writ petition, the learned Single Judge directed that the other terminal benefits of the appellant shall be retained by the respondents and the same shall be disbursed depending upon the outcome of the surcharge proceedings.

4. Aggrieved over the said direction, the appellant is before this Court.



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WEB COPY 5. Admittedly, as per the service rules governing the Secretary of the Co-operative society, there is no provision for the continuation of disciplinary proceedings or retaining the employee in service after superannuation. This aspect has also been held by the Full Bench of this Court in ***S.Andiyannan Vs. The Joint Registrar, Co-operative Societies, Madurai Region, Madurai and another, reported in 2015-3-L.W, 513.***

6. The issue now relates to the withholding of other terminal benefits. The main grievance of the appellant is that the respondents have not even disbursed the gratuity payable to him. The contention of the appellant is that the gratuity amount cannot be withheld or made liable for any attachment.

7. We have considered the submissions made on either side and perused the entire materials available on record.

8. It is well settled that gratuity cannot be treated as a charge and that it is a statutory benefit payable for the services rendered by an employee. In this regard, a Division Bench of this Court in **The Management, V.T.742, Thiruvannamalai**



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District Consumer Co-operative Wholesale Stores Ltd. vs. S. Dhayalan and another in W.A. No.1395 of 2021 has held as follows:

“9. As the employee, the first respondent is entitled for the retiral benefits after his retirement and even the Gratuity of an employee cannot be treated as a charge and it is for the service rendered by him. Therefore, the statutes are conscious of the fact that the Provident Fund and the Gratuity Fund cannot be attached or be subject to any other process of any court or other authority, which is made clear under Sections 78 and 79 of the Tamil Nadu Co-operative Societies Act. Therefore, we see no reason to interfere with the order of the learned Single Judge.”

9. That apart, Section 79 of the Tamil Nadu Co-operative Societies Act clearly stipulates that the payment of gratuity shall not be liable to attachment or subject to any other legal process. Such being the position, when there is a clear statutory bar, the gratuity amount cannot be withheld under the pretext of pending surcharge proceedings.

10. In view of the above, the direction of the learned Single Judge that the other terminal benefits shall be retained by the respondents and disbursed



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depending upon the outcome of the surcharge proceedings is modified to the extent that the gratuity amount payable to the appellant shall not be withheld and the same shall be released. However, the other terminal benefits, which are liable to attachment, may be retained.

11. The learned counsel for the respondents submitted that a loss of more than Rs.40,00,000/- has allegedly been caused to the Society and surcharge proceedings are pending against the appellant; therefore, the gratuity amount should not be released. Such a contention cannot be accepted as a ground to withhold the gratuity. The statute specifically provides that the gratuity amount cannot be attached, and therefore the Society cannot withhold the same.

12. It is open to the Society to recover the alleged loss in accordance with law through appropriate proceedings against the movable or immovable properties of the appellant. Accordingly, the gratuity amount shall be paid to the appellant within a period of two months from the date of receipt of a copy of this order.



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13, In view of the above, the writ appeal is allowed. No costs.
Consequently, connected miscellaneous petition is closed.

[N.S.K.,J.] [M.J.R.,J.]
12.03.2026

NCC : Yes / No
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Internet : Yes
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and
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am

ORDER MADE IN
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