

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CAV ON 26/10/2015

DATED:28 /01/2016

CORAM

THE HONOURABLE MR.JUSTICE C.S.KARNAN

W.P.No.2385 of 2015

and

M.P.No.1 of 2015

G.Pandithurai

... Petitioner

Vs.

1.The Deputy Registrar of Co-op. Societies,
Ariyalur Circle, Ariyalur,
Ariyalur District.

2.The President,
R.2650, Keezhakudiyiruppu Primary
Agricultural Co-op. Credit Society,
Keezhakudiyiruppu Village & Post,
Udayarpalayam Taluk, Ariyalur District.

3.The Tahsildar,
Udayarpalayam Taluk @ Jayankondam,
Ariyalur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for a Writ of Mandamus, to direct the respondents 1 and 2 to disburse the subsistence allowance to the tune of Rs.1,70,325/- to the petitioner, as per order passed by the Assistant Commissioner of Labour / Competent Authority, Tamil Nadu Payment of Subsistence Allowance Act, Trichy, dated 20.07.2012 in S.A.No.03 of 2012.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.E.M.S.Natarajan
Government Advocate

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O R D E R

The petitioner was appointed as Clerk in the second respondent Society in the year 1990 and he discharged his duties without any blemish whatsoever, but the second respondent herein passed the order on 07.02.2007 whereby suspending him from service without any valid reasons. The petitioner has further submitted that the second respondent without following the procedure and without paying the entire subsistence allowance, the second respondent passed the termination order against him on 29.11.2011, against which, he preferred Statutory Revision before the Joint Registrar of Co-op. Societies under Section 153 of the Tamil Nadu Co-op. Societies Act and the same was rejected by the Joint Registrar of Co-op. Societies on 30.10.2012. Against which, the petitioner approached this Court and filed writ petition challenging the said orders in W.P.No.12477 of 2013 and the same is pending before this Court.

2. The petitioner has further submitted that during the suspension period, the second respondent had not disbursed the entire subsistence allowance except part of the amount, that too, after obtaining orders from this Court. When the second respondent not disbursed the entire subsistence allowance, he approached the Assistant Commissioner of Labour / Competent Authority under the Tamil Nadu Payment of Subsistence Allowance Act, Trichy and filed claim petitions after that the said authority passed orders, whereby directing the second respondent to pay the subsistence allowance to the tune of Rs.1,70,325/-, but the second respondent was not inclined to disburse the same. Hence, the said Assistant Commissioner of Labour / Competent Authority sent communication to the District Collector for recovering the same under Revenue Recovery Act, in turn, the District Collector sent communication to the third respondent to implement the said order passed by the Assistant Commissioner of Labour / Competent Authority, after that the third respondent sent communication to the first and second respondents and ordered to pay the subsistence allowance to the tune of Rs.1,70,325/- but the first and second respondents had not disbursed the subsistence allowance to him till date. The petitioner has further submitted that even though the Assistant Commissioner passed orders on 20.07.2012, till today the same was not implemented on the said order. Hence, the petitioner has filed the above writ petition.

3. The learned counsel Mr.C.Prakasam appearing for the petitioner / employee submits that the petitioner was appointed as a Clerk in the second respondent Society. The second respondent had suspended the petitioner from service from

07.02.2007, without assigning any valid reasons. After suspension, the petitioner is entitled to receive subsistence allowance till the enquiry is completed. The petitioner was terminated on 29.11.2011, without giving sufficient opportunity for getting explanation on the second notice. As such, the second respondent's termination order is not sustainable under law. The aggrieved petitioner has filed a petition before the Assistant Commissioner of Labour, who is the competent authority to decide the issue under the Tamil Nadu Payment of Subsistence Allowance Act. The said case has been decided on merits and the second respondent was directed to pay a sum of Rs.1,70,325/- as subsistence allowance.

4. The very competent counsel further submits that the petitioner made representation to the District Collector, who in turn directed the third respondent / Taluk Tahsildar attached to the Jayamkondam Taluk to implement the said order. The management has filed writ petition on the impugned order passed by the Assistant Commissioner of Labour. The said W.P.No.3802 of 2015 was admitted and interim stay had been granted on condition that the second respondent herein should deposit 50% of the award amount. The same has been complied with and the deposited amount has been withdrawn. The petitioner is entitled to receive the balance of subsistence allowance.

5. The learned counsel Mr.E.M.S.Natarajan appearing for the respondents submits that on the same issue connected writ petition is pending before this Court. Further, the petitioner was paid the entire subsistence allowance. Therefore, the learned counsel entreats the Court to dismiss the above writ petition.

6. On considering the facts and circumstances of the case and arguments advanced by the learned counsels on either side and on perusing the typed set of papers, this Court is of the view that the current position is that the petitioner made representation dated 24.02.2014 to the District Collector, who in turn directed his subordinates, namely the third respondent herein to implement the order of the Assistant Commissioner of Labour dated 20.07.2012, under Revenue Recovery Act. Accordingly, the third respondent had issued communication to the second respondent herein for recovering the balance amount. The revenue authorities are the competent authorities to recover the said amount under the Revenue Recovery Act. The said recovery proceedings is under process. Therefore, mandatory direction is not required. However, the third respondent herein is directed to speed up the recovery proceedings. Hence, the

above writ petition is dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

r n s/vs

To

- 1.The Deputy Registrar of Co-op. Societies,
Ariyalur Circle, Ariyalur,
Ariyalur District.
- 2.The President
R 2650, Keezhakudiyiruppu Primary
Agricultural Co-operative credit society,
Keezhakudiyiruppu Village & Post
Udayarpalayam, Ariyalur District
- 3.The Tahsildar,
Udayarpalayam Taluk @ Jayankondam,
Ariyalur District.

+1 cc to Mr.C.Prakasam Advocate sr.5897

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