

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P.No.12900 of 2017
and WMP.No.13766 of 2017

M.Prabakaran

... Petitioner

Vs

1. The Joint Registrar of Co-operative Societies,
Salem Region, Salem.

2. 107, Omalur Primary Agricultural
Co-operative Credit Society Ltd.,
Rep by its President,
Omalur Post, Salem District.

3. C.Muthusamy,

... Respondents

Prayer : - Writ Petition filed under Article 226 of the Constitution of India
pleaded to issue a writ of mandamus or any other appropriate writ, order or
direction in the nature of a writ, forbearing the respondents from
proceeding with the enquiry pursuant to the charge memo no. Nil dated
15.06.2016 issued by the second respondent, without complying with the
petitioner's request dated 30.03.2017 and 22.04.2017 seeking payment of
subsistence allowance and also relevant documents to him.

For Petitioner : Mr.C.K.Chandrasekar

For Respondents : Mr.L.P.Shanmugasundar, Spl.G.P

ORDER

The petitioner has filed the present writ petition seeking for a direction to forbear the respondents from proceeding with the enquiry, pursuant to the charge memo no. Nil dated 15.06.2016 issued by the second respondent, without complying his request dated 30.03.2017 and 22.04.2017, seeking payment of subsistence allowance and also relevant documents to him.

2. The writ petitioner has made a representation to the Enquiry Officer as well as to the Disciplinary Authority to pay subsistence allowance for participating in the Departmental Enquiry. He has also made a representation on 21.02.2017 for supply of documents. The respondents have stated that they have already supplied xerox copies of all the documents. However, it is argued that subsistence allowance has not been paid so far.

3. In any disciplinary proceedings, the principle of natural justice is cordinal and the employee who is under suspension shall be paid subsistence allowance. Without payment of subsistence allowance, he cannot be forced

to attend the enquiry, as his survival itself is in peril. Therefore, the contention of the petitioner is to proceed further, the subsistence allowance shall be paid to the suspended employee, in order to effectively defend his case.

4. In a similar circumstances, in the order passed by this Court in WP No.30219 of 2015 dated 25.09.2015 it has been observed that the delinquent shall be permitted to peruse the documents and till then, Enquiry Proceedings were directed to be deferred.

5. In such circumstances, a direction is issued to the respondents to pay subsistence allowance due to the petitioner, and then proceed with the enquiry. In the event, if it is not paid, the respondents are directed to defer the disciplinary proceedings, till the disbursal of subsistence allowance. The respondents are also directed to permit the petitioner, to peruse the documents, in order to defend his case effectively.

M.GOVINDARAJ,J

dpq

6. With the above direction, the writ petition is disposed of. No costs.
Consequently connected miscellaneous petition is also closed.

18.05.2017

dpq

To

1. The Joint Registrar of Co-operative Societies,
Salem Region, Salem.

2. 107, Omalur Primary Agricultural
Co-operative Credit Society Ltd.,
Rep by its President,
Omalur Post, Salem District.

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