



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.04.2017

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.(MD).No.7430 of 2017

and

W.M.P(MD)No.5818 of 2017

NN.626, Kannanoor Primary
Agricultural Co-operative Credit Society,
Rep. By P.Kumar, S/o. Pal Pandian,
Secretary-in-charge, Peria Kannanoor Post,
Sivagangai District.

..Petitioner

Vs.

1.The Assistant Commissioner of Labour,
(Authority under Payment of Subsistence Allowance Act),
Bharathi Ula Road, Race Course Colony,
Madurai-625 002.

2.A.Rajendran

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order No.Aa2/53/2017, dated 10.02.2017 passed by the first respondent and quash the same as illegal and consequently direct the first respondent to dispose of the review application, dated 04.01.2017, in accordance with law.

For Petitioner : Mr.L.George Paul Anto
For R-1 : Mr.N.S.Karthikeyan,
Additional Government Pleader.

O R D E R

This Writ petition has been filed by the petitioner for issuance of a Writ of Mandamus, calling for the records of the impugned order No.Aa2/53/2017, dated 10.02.2017 passed by the first respondent and quash the same as illegal and consequently, direct the first respondent to dispose of the review application, dated 04.01.2017 in accordance with law.

2. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first



respondent.

3. Mr.N.S.Karthikeyan, learned Additional Government Pleader, takes notice for the first respondent. By consent, the Writ petition itself is taken up for final disposal.

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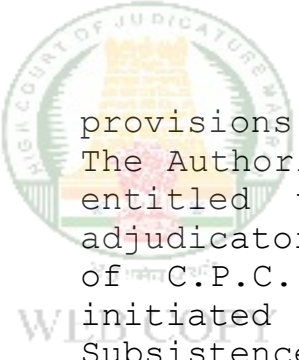
4. *The short facts that are necessary for the disposal of this Writ petition are as follows:-*

The second respondent in this Writ petition was working as Secretary in the petitioner Society. It is alleged that major irregularities were noticed while loans were disbursed by the second respondent. Further, it is alleged that the second respondent siphoned off huge amount of public fund of the petitioner Society by way of misappropriation and that the Society was put to severe financial crisis. The second respondent was placed under suspension with effect from 05.12.2013. Later, he was also dismissed from service by proceedings, dated 01.10.2014. However, the second respondent filed a petition before the first respondent claiming Subsistence Allowance from the petitioner Society under the Provisions of Subsistence Allowance Act. Despite objection being raised by the petitioner that the second respondent being an Chief Executive of the Society is not an employee within the meaning of Tamil Nadu Payment of Subsistence Allowance Act, 1981, the first respondent allowed the petition filed by the second respondent.

5. As against the order passed by the first respondent allowing the petition filed by the second respondent in P.S.A.No.1 of 2015, by order dated 25.11.2016, the petitioner herein filed a Review application before the first respondent. The Review application was dismissed by an order dated 10.02.2017 stating that the Review petition is not maintainable and that the petitioner has a remedy by way of preferring an appeal in terms of Tamil Nadu Payment of Subsistence Allowance Act. As against the order of dismissal, the present Writ petition has been filed by the petitioner.

6. The learned counsel for the petitioner raised a legal issue with regard to entitlement of the petitioner to claim Subsistence Allowance and maintainability of the petition before the first respondent.

7. The question before this Court in the present Writ petition is about the legality of the order impugned in the present Writ petition. The Review petition filed by the petitioner has been dismissed on the ground that there is no provision under Tamil Nadu Payment of Subsistence Allowance Act to file a Review as against the order of the first respondent. The factual finding of the first respondent is not in dispute. However, the learned counsel for the petitioner submit that the provisions of Civil Procedure Code can be extended to the proceedings filed under the



provisions of Tamil Nadu Payment of Subsistence Allowance Act. The Authorities under the payment of Subsistence Allowance Act are entitled to exercise the power of the civil Court in the adjudicatory process. That does not mean that the Order 47 Rule 1 of C.P.C., is also applicable to the proceedings that are initiated under the provisions of Tamil Nadu Payment of Subsistence Allowance Act.

8. Having regard to the provisions of Tamil Nadu Payment of Subsistence Allowance Act, the Review petition is not maintainable. Hence, this Court does not find any merits in the Writ petition. Accordingly, the Writ petition is dismissed. However, liberty is given to the petitioner to file an appeal as against the order of the first respondent in accordance with law. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar(Crl. Side)

/True Copy/

Sub Assistant Registrar

To

The Assistant Commissioner of Labour,
(Authority under Payment of Subsistence Allowance Act),
Bharathi Ula Road, Race Course Colony, Madurai-625 002.

PMU
JS/JC/SAR.1/26.05.2017/3P-2C

ORDER MADE IN
W.P. (MD) .No.7430 of 2017
and
W.M.P (MD) No.5818 of 2017
21.04.2017