

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.06.2018

Coram

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN  
AND  
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.1201 of 2015  
& M.P.No.1 of 2015

1. The Joint Registrar,  
Co-operative Society,  
Thiruvallur, Thiruvallur District
  2. The President,  
J.J.601, Meyyur Primary Agricultural  
Cooperative Credit Society,  
Meyyur Village & Post,  
Uttukottai Taluk, Thiruvallur District
- .... Appellants/1&2 Respondents
- Vs.
- G.Mohanan ..... Respondent/Writ Petitioner

This Writ Appeal is filed under clause 15 of the Letters Patent against the order dated 30.06.2015 made in W.P.No.17228 of 2015 on the file of this Court.

Prayer in W.P.No.17228 of 2015:

Petition Under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the respondents to *disburse the subsistence allowance to the petitioner for the period under suspension from 26.11.2012 to 31.05.2015 to the tune of Rs.8,99,848/- for every succeeding month*(in W.P.No.17228 of 2015)

For Appellants: Mr.L.P.Shanmugasundaram  
For Respondent: Mr.C.Prakasam

JUDGMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN,J.)

This intra Court appeal is filed at the instance of the respondent in W.P.No.17228 of 2015 challenging the order dated 30.06.2015, in and by which the respondents in the Writ Petition were directed to pay the arrears of subsistence allowance within

a period of four weeks from the date of receipt of a copy of the order.

2. The respondent herein/petitioner in the Writ Petition was suspended by order dated 26.11.2012 pending enquiry into the grave charges. Complaining that he has not been paid subsistence allowance, he has come forward with the above Writ Petition. Pending the Writ Petition, the second appellant Society had passed a resolution on 27.06.2015 stating that the respondent is entitled to subsistence allowance and the Society is willing to pay the subsistence allowance to the respondent. However, a request seems to have been made by the Society for six months time to pay the arrears of subsistence allowance. The learned single Judge rejected the request for grant of six months time and directed the Society to pay the subsistence allowance within a period of four weeks from the date of receipt of a copy of the order. It is this order which is challenged in this appeal.

3. We have heard Mr.L.P.Shanmugasundaram, learned counsel for the appellants and Mr.C.Prakasam, learned counsel for the respondent.

4. Mr.Shanmugasundaram would contend that the Secretary being a managerial staff of the Society cannot be considered as an employee entitled to subsistence allowance. He would also seek to rely upon the judgment of the Division Bench in W.A.No.782 of 2015 dated 31.01.2018.

5. We do not propose to go into the question of law inasmuch as the order passed by the learned single Judge, in our opinion, is a consent order, wherein the Society had passed a resolution stating that it is willing to pay the subsistence allowance to the petitioner and has asked for time. Hence we are not inclined to entertain the appeal, as the same is against the consent order.

6. However, since the suspension is of the year 2012, the second appellant Society is directed to conclude the disciplinary proceedings within a period of six months from the date of receipt of a copy of the order. The arrears of subsistence allowance shall be paid within a period of eight weeks from the date of receipt of a copy of the order.

7. The intra court appeal is disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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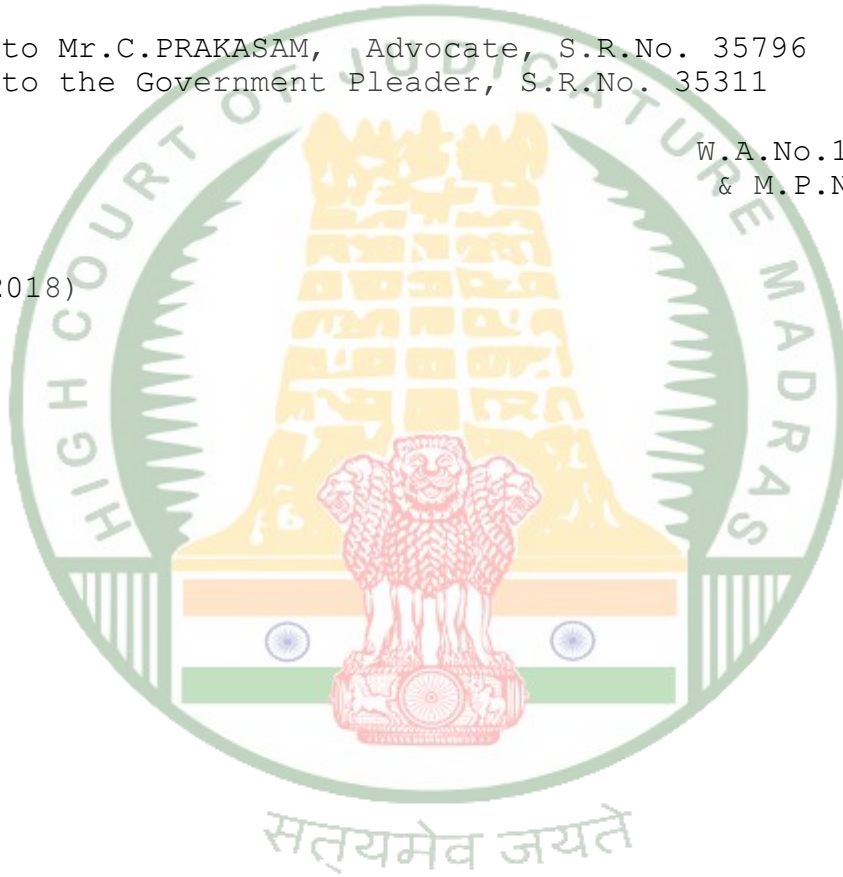
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+1cc to Mr.C.PRAKASAM, Advocate, S.R.No. 35796

+1cc to the Government Pleader, S.R.No. 35311

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SR(CO)  
TR(19/06/2018)



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