

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 31.01.2018

CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
AND
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

Writ Appeal No.782 of 2015
and M.P.No.1 of 2015

1. The Deputy Registrar,
Co-operative Society,
Kanchipuram,
Kanchipuram District
2. The Pullalur Primary Agricultural Co-operative
Credit Society, Pullalur Post,
Kancheepuram Taluk & District rep by its
President Appellants

vs

T. Kirubakaran Respondent

Writ Appeal filed under Clause 15 of Letters Patent against the order passed in W.P.No.24625 of 2014 dated 07.04.2015 filed under Article 226 of the constitution of India praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the 2nd Respondent dated 05.05.2014 and quash the same and direct the Respondents to continue to pay subsistence allowance to the petitioner until the order of suspension is revoked.

For Appellants :Ms.T. Girija,
Govt. Advocate

For respondent :Mr.G.Jermaiah
JUDGMENT

(Judgment of the Court was delivered by
K.K. SASIDHARAN, J.,)

The claim made by the respondent for subsistence allowance during the period of suspension was allowed by the learned Single Judge. The order is under challenge at the instance of the appellant.

2. The respondent was working as Secretary in the Pullalur Primary Agricultural Co-operative Society. He was placed under suspension, pending initiation of the disciplinary proceedings. The claim made by the respondent, for payment of subsistence allowance, was negatived by the appellant, on the ground that there is no provision to pay subsistence allowance to an employee, who was working as Secretary. However, the learned Single Judge set aside the said order and mandamus was issued to the appellant to pay subsistence allowance to the respondent.

3. We have heard Ms.T.Girija, the learned counsel for the appellants and Thiru.G.Jermiah, learned counsel for the respondent.

4. The issue raised in this appeal is covered by a decision of the Division Bench in K. Avanasiaappan Vs The Management of Thekkalur Primary Agricultural Co-operative Bank rep by its President, P. Senthilvel and Others (CDJ 2011 MHC 6513). The Division Bench made it clear that the Secretary of the Co-operative Society cannot be termed to be an employee under Sec.2 (a) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 and as such, he is not entitled for subsistence allowance.

5. Accordingly, by following the judgment of the Division Bench cited supra, the intracourt appeal is allowed. No costs. Consequently, connected MP is closed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

sr

To

1. The Deputy Registrar,
Co-operative Society,
Kanchipuram,
Kanchipuram District
 2. The Pullalur Primary Agricultural Co-operative
Credit Society, Pullalur Post,
Kancheepuram Taluk & District rep by its
President
- +1 cC to Mr.L.P. Shanmuga sundaram, Advocate sr 7541.
+1 CC to The Govt. Pleader sr 7452.

Writ Appeal No.782/2015

SP(21/02/2018)