

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.10.2018
Coram

The Hon'ble Mr.Justice Satrughana Pujahari

Writ Petition No.1706 of 2018

M.Elango

...Petitioner

Vs.

- 1.The Registrar,
The Co-operative society,
N.V.Natarajan Maligai,
Periyar EVK High Road,
Kilpauk,
Chennai-600 010.
- 2.The Deputy Registrar,
The Co-operative Society,
The Officer of the Assistant Registrar,
Sudhakaran Complex, Vellore Road,
Tiruchengodu, Namakkal District-637 211.
- 3.The President,
S.1067, Jamin Elampalli PACS,
Jamin Elampalli Post, Solasiramani (Via),
Paramathi Velur (Tk),
Namakkal District-637 210
- 4.The Administrator,
S.1067, Jamin Elampalli PACS,
Jamin Elampalli Post, Solasiramani (Via),
Paramathi Velur (Tk),
Namakkal District-637 210

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus directing the third respondent to take proper steps on petitioner's representation dated 18.01.2017 regarding the payment of subsistence allowance and other allowances to the petitioner.

For Petitioners: Mr.G.Murugendran

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

ORDER

Heard Mr.G.Murugendran, the learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who accepts notice on behalf of the respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for disposal.

2.This writ petition has been filed by the petitioner challenging the action of the respondents in non-payment of subsistence allowance to him inasmuch though he is continuing under suspension, and as such legally entitled to the same.

3. It is not in dispute that the petitioner is not paid the subsistence allowance. However, during the course of hearing on admission, the learned counsel for the petitioner submits that the petitioner is entitled to subsistence allowance inasmuch as the same cannot be denied to him, hence the writ petition may be disposed of with a direction of giving him the subsistence allowance in appropriate scale.

4. However, the learned Special Government Pleader appearing for the respondents relying on a decision of this Court in the case of K.Avanaslappan Vs. The Management of Thekkalur Primary Agricultural Co-operative Bank and Others(CDJ 2011 MHC 6513) dated 20.12.2011, has submitted that the petitioner does not come within the definition of an "employee" as per Section 2(a) of the Tamilnadu Payment of Subsistence Allowance Act, 1981, hence, the writ petition is devoid of merit.

5. After hearing the counsel for the parties and going through the materials on record and in view of the decision rendered by a Division Bench of this Court in W.A.No.1569 of 2012 dated 10.02.2015 in the case of Special Officer, D.K.81, Chennasandiram Primary Agricultural Co-operative Credit Society Ltd., Vs. P.Periyannan and Another, wherein, addressing the similar contention raised by the appellant and also taking note of the law laid down in the case of K.Avanaslappan Vs. The Management of Thekkalur Primary Agricultural Co-operative Bank and Others cited supra, have held that in view of Regulations governing the Co-operative Society, the Secretary is also entitled to subsistence allowance. Hence, the contention advanced by the learned Special Government Pleader that the petitioner is not entitled to subsistence allowance, appears to be devoid of merit.

6.Therefore, the petitioner being an suspended employee is entitled to the substance allowance. Hence, the respondents are directed to consider the representation of the petitioner dated 18.01.2017 for payment of such substance allowance to the petitioner within a period of three weeks from the date of

receipt of a copy of this order.

7. With the aforesaid direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Registrar,
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Paramathi Velur(Tk),
Namakkal District-637 210

+1cc to Mr.G.Murugendran, Advocate, S.R.No.73241

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.74051

+1cc to the Government Pleader, S.R.No.74375

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SVN(CO)
GSP(28/11/2018)