



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2018

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.19898 of 2014

C.Rameswaran

... Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Kanyakumari District.
- 2.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Tirunelveli.
- 3.The Secretary,
Eraniel Sarvodya Sangam,
Eraniel,
Neyyoor Post,
Kanyakumari District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the first respondent to initiate recovery for a sum of Rs.1,22,363/ towards arrears due from the third respondent towards payment of subsistence allowance to the petitioner as per the certificate in N2/3877/2014 dated 07.08.2014 issued by the second respondent thereby implementing the orders of the second respondent dated 24.02.2014 made in P.S.A.No.13 of 2012 and P.S.A.No.14 of 2012 thereby considering the representation dated 25.08.2014 set by the petitioner to the first respondent within a time frame as may be fixed by this Court.

For Petitioner : Mr.G.Aravinthan

For Respondents : Mr.S.Dhayalan, G.A.for R1 and R2
Mr.M.Jerin Mathew for R3

O R D E R

The petitioner has come forward with this Writ petition, seeking to issue a Writ of Mandamus, directing the 1st respondent to initiate recovery for a sum of Rs.1,22,363/- towards arrears due from the 3rd respondent for payment subsistence allowance to the petitioner by way implementing the order of the 2nd respondent dated 24.02.2014 made in P.S.A.Nos.13 & 14 of 2012 within a time frame.



2.The case of the petitioner is that when he was working as an Assistant in the third respondent office, based on certain irregularities, a criminal case in Crime No.5 of 2005 has been registered against the petitioner and that he was placed under suspension on 20.12.2003. As the petitioner has not been paid subsistence allowance from 20.12.2003 to 17.12.2005, he has approached the Assistant Commissioner of Labour under the Payment of Subsistence Allowance Act, 1981 and the same was allowed by order dated 24.02.2014. Thereafter, on 07.08.2014 a certificate in B2/3877/2014 has been issued to the 1st respondent / District Collector, Kanyakumari District. In the mean time, the 3rd respondent / Management has preferred a Writ petition in W.P.(MD) No.16032 of 2014 before this Court and this Court by order dated 08.02.2018 dismissed the said Writ petition. Since no action was taken by the 1st respondent, the petitioner has filed the present Writ petition for the aforesaid prayer.

3.Heard the learned counsel for the petitioner, Mr.S.Dhayalan, Government Advocate appearing for the respondents 1 & 2 and Mr.M.Jerin Mathew, learned counsel appearing for the third respondent.

4.Payment of subsistence allowance payable, as per the orders of the 2nd respondent / Assistance Commissioner of Labour, is a mandatory requirement. It is seen that the 3rd respondent / Management has preferred the Writ petition, without availing alternative remedy in filing an appeal by making statutory deposit and the said Writ petition was dismissed on 08.02.2018. Since there is a certificate dated 07.08.2014, issued by the authorities, it is the duty cast upon the 1st respondent / District Collector to recover the said amount in terms of the provisions of the Revenue Recovery Act. It is also needless to mention that the 1st respondent is empowered to attach the property of the 3rd respondent for collecting such amount due to the employee.

5.In such view of the matter, the 1st respondent is expected to comply with the orders dated 07.08.2014 for recovering the amount within a period of one month from the date of receipt of a copy of this order and the said amount shall be deposited before the 2nd respondent / Assistant Commissioner of Labour, failing which, the amount shall be recovered from the personal funds of the 1st respondent. The Writ petition is disposed of accordingly. It is needless to mention that the Authorities are empowered to take coercive action to recover the amount, including lock and seal the premises of the respondent concerned. If this order is communicated to Electricity Board they shall effect disconnection of electricity to the respondent concerned forthwith. Employees should not face



starvation death. Only strict action / penal action would render justice to the poor. No costs.

SD

ASSISTANT REGISTRAR (WRITS)

WEB COPY

TRUE COPY

SUB ASSISTANT REGISTRAR (CS II)

nbg

To

- 1.The District Collector,
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Kanyakumari District.
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Office of the Deputy Commissioner of Labour,
Tirunelveli.
- 3.The Secretary,
Eraniel Sarvodya Sangam,
Eraniel,
Neyyoor Post,
Kanyakumari District.

1CC TO MR. G. ARAVINTHAN, ADVOCATE SR 79052

1CC TO MR. M.E. ILANGO, ADVOCATE SR 79323

1CC TO THE SPL GOVT PLEADER SR 79137

NM RSK SAR 2

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W.P. (MD) No.19898 of 2014

16.08.2018