



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.02.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).Nos.8861 to 8863 of 2016

and

W.M.P.(MD).Nos.7062 to 7064 of 2016 IN W.P.(MD).No.8861/2016

W.M.P.(MD).Nos.7065 to 7067 of 2016 IN W.P.(MD).No.8862/2016

W.M.P.(MD).Nos.7068 to 7070 of 2016 IN W.P.(MD).No.8863/2016

Q-1242, Thatuthalankottai Primary Agricultural
Co-operative Credit Society,

Represented by its President,

V.Kalimuthu,

Thathuthalankottai,

Ramanathapuram District.

... Petitioner in W.P.(MD).Nos.8861
to 8863 of 2016

Vs.

1. The Deputy Commissioner of Labour,
O/o. Labour Deputy Commissioner Office,
Dindigul, Dindigul District.

2. The Assistant Commissioner of Labour,
O/o. The Assistant Commissioner of Labour,
Madurai,
Madurai District.

... 1st and 2nd Respondents in
W.P.(MD).Nos.8861 to 8863 of 2016

3.P.Thangaraj

... 3rd Respondent in
W.P(MD)No.8861 of 2016

4.M.Chandran

... 3rd Respondent in
W.P.(MD).No.8862 of 2016

5.S.Ramakrishnan

... 3rd Respondent in
W.P.(MD).No.8863 of 2016

COMMON PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent in his proceedings W.P.(MD).Nos.8861 to 8863 of 2016 dated 29.03.2016 confirming the order passed by the second respondent in case Nos.W.P.(MD).Nos.8861 to 8863 of 2016 and 2/09, dated 05.04.2010 regarding W.P.(MD).No.8863 of 2016 and quash the same as illegal.

**(In all Writ Petitions)**

For Petitioner

: Mr.C.Venkatesh Kumar
for Ajmal Associates

For Respondents

: Mrs.S.Srimathy for R1& R2

Special Government Pleader in all Wp's

:Mr.T.Ravichandran for R3 in WP(MD)8861/16

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COMMON ORDER

Heard the learned counsel on either side.

2.The petitioner is a Co-operative Society. The third respondents in all the Writ Petitions were employed with the petitioner. The third respondent in all the Writ Petitions were suspended in January 1996. The third respondents were not paid any subsistence allowance. Therefore, the third respondents moved the authority under Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981, seeking payment of the subsistence allowance.

3.When the matter was taken up for enquiry, the Management produced copies of the proceedings dated 20.11.1996, indicating that the third respondents were removed from service. The specific stand of the third respondents was that no such orders were ever communicated to them. In fact, no charge memo was issued and no enquiry was conducted and that the Management had suspended the employees from service and nothing beyond that. The Authority rightly disbelieved the stand taken by the Management. The Management took a stand that the orders of removal were communicated by certificate of posting to the third respondent. The Hon'ble Supreme Court in the decision reported in **1994 1 SCC 682 (Gadakhyantrao Kankarrao vs Balasaheb Vikhe Patil on 19 November, 1993)** held in paragraph 61 as follows:-

"Gadakh's version that he sent the letter dated May 16, 1991 (Ex. Q) under certificate of posting is unbelievable. A certificate of posting is easy to procure and does not inspire confidence. Moreover, the circumstances belie his version. With his considerable means and past experience of elections, he would have sent such a letter by registered post to ensure its delivery and create cogent evidence of its despatch. Moreover, he would not merely send such a letter but have his denial published in newspapers because of its significance during elections. We have no doubt that Gadakh's conduct belies his belated denial at the trial."

4.The orders passed by the original Authority as confirmed by the Appellate Authority do not call for any interference. The finding cannot be said to be perverse.



5. There is no merit in these Writ Petitions. The Writ Petitions stand dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AE)

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/True Copy/

Sub Assistant Registrar

To

1. The Deputy Commissioner of Labour,
O/o. Labour Deputy Commissioner Office,
Dindigul, Dindigul District.
2. The Assistant Commissioner of Labour,
O/o. The Assistant Commissioner of Labour,
Madurai,
Madurai District.

+1cc to Mr. T.Ravichandran , Advocate Sr.No.47686

+1cc to M/S.Ajmal Associates, Sr.No.47552

+1cc to SPECIAL GOVERNMENT PLEADER, Sr.No.47440

TSG

MK/SV MMS/SAR 4/19.06.2018/3P/6C

ORDER MADE IN
W.P. (MD) .No.8861 to 8863 of 2016
08.02.2018