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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.A.Nos. 2273 to 2275 of 2013
And
M.P.No. 1 of 2013

The Management
KK.127, Hosur Primary Agricultural
Co-operative Credit Society Limited.,
Rep. by its Special Officer
M.G.Road, (Near Gandhi Statute)
Hosur, Krishnagiri ... Petitioner/Appellant in all W.As.

Vs.

W.A.No. 2273 of 2013:

1. The Assistant Commissioner/
Authority under the Payment of
Subsistence Allowance Act,
Salem - 7.
2. C.Patammal ... Respondents/Respondents

W.A.No. 2274 of 2013:

1. The Assistant Commissioner/
Authority under the Payment of
Subsistence Allowance Act,
Salem - 7.
2. N.Kumari ... Respondents/Respondents

W.A.No. 2275 of 2013:

1. The Assistant Commissioner/
Authority under the Payment of
Subsistence Allowance Act,
Salem - 7.
2. N.Krishnan ... Respondents/Respondents



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a phased manner and the petitioner cannot disown their obligation in paying subsistence allowance at least at the initial rate of 50%. Even not paying the initial amount and driving the parties to various forms itself lacks bonafide. The stand taken by the petitioner cannot be appreciated. Though Mr.M.S.Palaniswamy, learned counsel for the petitioner states that initial payment at the rate of 50% of subsistence allowance have been paid and the dispute is only confined to enhanced subsistence allowance, this Court is not inclined to entertain these Writ Petitions because the authority has correctly held that having recourse to the legal remedy is the fundamental right to any citizen to move the Court for redressing their grievances. There is no case made out by the petitioner to interfere with the impugned orders of the authority. Hence, all these Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed."

2. The learned counsel for the appellant Credit Society has made two submissions before us namely that one of the employees was not even a workman, since he was an Assistant Secretary of the Society and therefore, could not claim subsistence allowance. He further submitted that the requirement of pre-deposit to maintain department appeal is an onerous condition.

3. On the other hand, the learned counsel appearing for the workmen Mr.Nazrulla submitted that the appellant Management has not paid subsistence allowance to the respondent/workmen though they were duty bound to subsistence allowance to the respondent/workmen. He further submitted that the delay in filing the Departmental Appeals and the condition of waiver of pre-deposit cannot be waived.

4. Heard the learned counsels appearing for the parties. We find that the present case is very old one pertaining to the year 2008-2009. The learned Single Judge has merely relegated the appellant as well as the respondent to the alternate remedy by way of Appeal under the provisions of the said Act. We are not inclined to interfere with the said directions of the learned Single Judge in any manner since mixed question of facts and laws are sought to be raised before us which can very well determined by the said competent authority. However, in view of



the long lapse of period, now we are inclined to pass the following directions in the present Writ Appeals:-

(I) If the Management files the Appeals against the impugned order within 30 days from today, the Appellate Authority shall not raise objections as to the delay in filing of the Appeals and also not insist on the pre-deposit of the amount in question for maintaining the said Appeals;

(II) After hearing both the parties, the Appellate Authority shall decide the Appeals on merits and in accordance with law within three months from the date of filing of the Appeals; and

(III) Both the parties shall be free to lead evidence and raise all contentious and the concerned Appellate Authority, who shall decide the Appeals on merits and pass a speaking Order, in accordance with law.

5. With these directions, the Writ Appeals are disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

08/07/2019

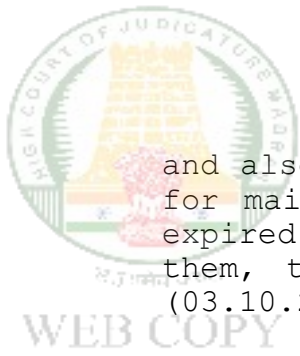
For being Mentioned

This matter having been listed today i.e (Thursday the Third day October 2019) for being mentioned, in pursuance of this order of this Court dated 08/07/2019, and made herein in the presence of Mr.M.S.Palaniswamy, Advocate for the petitioner and of Mr.L.P.Shanmugasundaram, Special Government Pleader (Co-OP) for the 1st Respondent and of Mr.Nazrulla for M/s.K.V.Shanmuganathan Advocate for the 2nd Respondent, this court made the following order:

The above writ appeals have been listed today under the caption "for being mentioned".

2. The learned counsel for the appellant submitted that the copy of the order dated 08.07.2019 passed by this Court, was made available to them only on 23.09.2019, after a gap of 65 days.

3. By the said order dated 08.07.2019, it was directed that if the Management files an appeal against the impugned order within 30 days from 08.07.2019, the Appellate Authority shall not raise objections as to the delay in filing of the appeals



and also not insist on the pre-deposit of the amount in question for maintaining the said appeals. Since the period of 30 days expired even before the certified copy was made available to them, the said period of 30 days shall be counted from today (03.10.2019). The rest of the order is maintained.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

Vsg

TO

1. The Assistant Commissioner,
Authority under the payment of
subsistence Allowance Act,
Salem 7.

+3cc to Mr.K.V.Shanmuganathan, Advocate, S.R.No. 57921, 57920,
57919

+1cc to Mr.S.Palaniswamy, Advocate, S.R.No. 56819

+1cc to the Government Pleader, S.R.No. 58021

W.A.Nos. 2273 to 2275 of 2013

And

M.P.No. 1 of 2013

VSN II (CO)
GN(21/08/2019)
svi(co)
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