

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 19.11.2019
CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.No.17201 of 2011

S.Sakunthala

...Petitioner

..Vs..

- 1.The Deputy Commissioner of Labour,
Coimbatore - 641 018.
- 2.The Deputy Commissioner of Labour,
Salem - 636 001.
- 3.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Coimbatore - 641 018.
- 4.K.796 Pollachi Municipal Employees Co-operative
Thrift & Credit Society Ltd., rep by its Special Officer,
Pollachi - 642 001.
Coimbatore District.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned appellate orders passed by the second respondent made in APSA.2/2009 dated 01.03.2011 along with the impugned orders passed by the third respondent made in PSA.No.9/2002 dated 24.10.2005 and quash the same and consequently direct the fourth respondent to settle the subsistence allowances for the period of suspension between 30.05.2001 to 31.03.2002 in terms of First proviso to sub-section (1) of section 3 of the Payment of Subsistence Allowances Act, 1981.

For Petitioner : Mr.K.Prem Kumar

For Respondents : Mr.J.Ramesh, AGP
No appearance for fourth respondent

ORDER

The order passed by the second respondent in APSA No.2/2009 dated 01.03.2011 is under challenge in the present writ petition.

2.The learned counsel appearing on behalf of the petitioner states that the petitioner was working as Clerk in the fourth respondent/Co-operative Society and dismissed from service with effect from 06.11.2003. The order of dismissal is challenged and the said dispute is pending before the Labour Court, Coimbatore. Before the order of dismissal from service, the petitioner was kept under suspension from 30.05.2001 till the dismissal from service i.e., on 06.11.2003, as per the proceedings of the fourth respondent/ Management dated 30.05.2001.

3.Under these circumstances, the petitioner has filed an application seeking subsistence allowance under the provisions of the Subsistence Allowance Act before the competent authority. The grievance of the writ petitioner is that the competent authority under the Subsistence Allowance Act rejected the petition on the ground that the petitioner has not appeared. In other words, the petitioner was set exparte and the petition was rejected. The original authority dismissed the claim of the writ petitioner, against which appeal was filed in APSA No.2/2009. The Appellate Authority rejected the claim on account of the non-appearance of the writ petitioner.

4.Under these circumstances, this Court is of the opinion that the Appellate Authority has to resolve the issues by affording an opportunity to the parties concerned. The order impugned passed under the provisions of Subsistence Allowance Act is an exparte order. Thus, this Court is inclined to consider the present writ petition and accordingly APSA No.2/2009 dated 01.03.2011 is quashed. The first respondent is directed to restore the appeal filed by the writ petitioner in APSA No.2/2009 and issue notice to the parties concerned, adjudicate the issues on merits and dispose of the appeal as expeditiously as possible.

5.Accordingly, the writ petition stands allowed. No costs.

Sd/-

Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

mrm

To

1.The Deputy Commissioner of Labour,
Coimbatore - 641 018.

2.The Deputy Commissioner of Labour,
Salem - 636 001.

3.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Coimbatore - 641 018.

+1 cc to M/s.Sarvabhauman Advocate sr96217

+1 cc to the government Pleader sr96551

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