



WEB COPY

W.P.(MD)No.14726 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.10.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .Nos.14726 and 14750 of 2010

and

M.P. (MD) Nos.1 and 1 of 2010

W.P. (MD)No.14726 of 2010

The Special Officer,
A, 2911, State Government
Employees' Cooperative Stores Ltd.,
Madurai District. .. Petitioner

Vs.

1.The Appellate Authority
under the Tamil Nadu Payment of
Subsistence Allowance Act,
Madurai.

2.The Assistant Commissioner of Labour,
(Authority under the Payment of
Subsistence Allowance Act),
Madurai.

3.V.Sonai Muthu .. Respondents

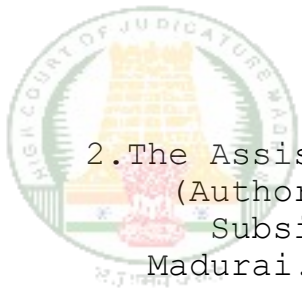
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned order passed by the first respondent dated 30.12.2009 in case No.PSAA No.3 of 2009 by confirming the order passed by the second respondent dated 18.08.2008 in PSA I.A.No.7 of 2007 and quash the same.

W.P. (MD)No.14750 of 2010

The Special Officer,
A, 2911, State Government
Employees' Cooperative Stores Ltd.,
Madurai District. .. Petitioner

Vs.

1.The Appellate Authority
under the Tamil Nadu Payment of
Subsistence Allowance Act,



2.The Assistant Commissioner of Labour,
(Authority under the Payment of
Subsistence Allowance Act),
Madurai.

3.N.Sundaramoorthy

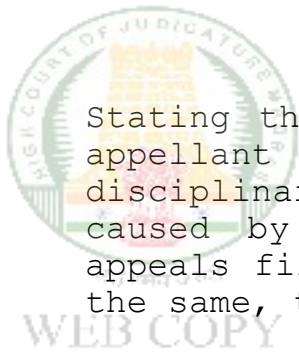
.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned order passed by the first respondent dated 29.12.2009 in case No.PSAA No.4 of 2009 by confirming the order passed by the second respondent dated 18.08.2008 in PSA I.A.No.8 of 2007 and quash the same.

For Petitioner : Mr.R.Saravanan
in both cases
For Respondents 1&2: Mr.D.Muruganandam,
in both cases Additional Government Pleader
For Respondent 3 : Mr.S.Mohan Doss
in W.P.(MD)No.14726/2010
For Respondent 3 : No appearance
in W.P.(MD)No.14750/2010

COMMON ORDER

The petitioner in both the Writ Petitions are the Special Officer in State Government Employees' Cooperative Stores Ltd., a cooperative society registered under the Cooperative Societies Act. The third respondent in the respective Writ Petitions were working as Clerks under the cooperative stores run by the Writ Petitioner. During the year 1983, while the third respondent in both the cases were on duty, for committing serious misconduct like falsification of accounts, fabrication of records and other delinquencies, disciplinary action was taken against the third respondent who were also placed under suspension from 03.08.1998. It is admitted that the third respondent in the respective Writ Petitions were not reinstated subsequently and criminal prosecution was also launched against them. Ultimately, without challenging the non-employment, it is stated that the third respondent in the respective Writ Petition filed applications claiming subsistence allowance before the Assistant Commissioner of Labour with a long delay of more than fifteen years. Without considering the legal and factual position, it is stated that the Assistant Commissioner of Labour, Madurai, casually allowed the petitions to condone the delay of 5962 days. Aggrieved by the order of the Assistant Commissioner of Labour in the interlocutory applications, the petitioner herein preferred an appeal under the Tamil Nadu Payment of Subsistence Allowance Act and the Appellate Authority, namely, the first respondent herein.



Stating that the appellant has not examined the officials and the appellant has not given any explanation for not taking any disciplinary action for more than 15 years and that the delay was caused by the officials of the writ petitioner concerned, the appeals filed by the petitioner were also dismissed. Aggrieved by the same, the Writ Petitions have been filed by the petitioner.

2.From the records, there is absolutely no acceptable explanation for condoning the delay of 5962 days. Since no disciplinary action was taken by the petitioner, it is stated by the third respondent that the petitioner society is responsible for the delay. This is not acceptable. It is admitted that a criminal prosecution was also launched against the third respondent and the application is filed six years after the criminal case was disposed of. Admittedly, there is no rhyme or reason for condoning the delay of more than fifteen years in filing the application under the provisions of the Payment of Subsistence Allowance Act. This Court is unable to accept the artificial reasons given by the respondents 1 and 2 while condoning the delay. As a result, these Writ Petitions are allowed and the orders impugned are set aside. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

1.The Appellate Authority
under the Tamil Nadu Payment of
Subsistence Allowance Act,
Madurai.

2.The Assistant Commissioner of Labour,
(Authority under the Payment of
Subsistence Allowance Act),
Madurai.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-94734[F] dated 25/10/2019)

+1 cc Mr.S.MOHAN DOSS ,Advocate, SR.No.94945

+1cc to M/s.Special Government Pleader,SR.No. 94900

W.P. (MD) .Nos.14726 and 14750 of 2010

25.10.2019

_KK/SAR/13.11.2019/3P-6C/

<https://hcservices.ecourts.gov.in/hcservices/>