



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1119 of 2019

V.Palanichamy

... Appellant

Vs.

The Special Officer,
A:1626, Pudupatti Primary Agriculture
Cooperative Bank,
P.Pudupatti, Vendasandur Taluk,
Dindigul District.

... Respondent

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, to allow the writ appeal and set aside the order dated 11.06.2019 passed by the learned Single Judge in W.P.(MD)No.2665 of 2013 on the file of this Court.

Prayer in WP(MD) . 2665/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondent to pay the petitioner subsistence allowance with all arrears payable to him from the date of suspension order dated 09.12.2004 till the final order in enquiry dated 15.09.2012 after deducting payment made by the Respondent.

For Appellant : Mr.J.Lawrance

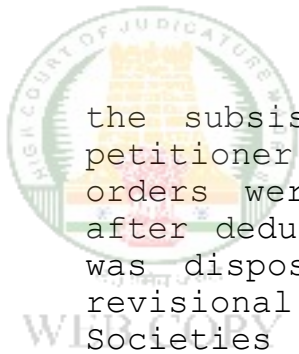
For Respondent : Mr.A.K.Baskara Pandian
Special Government Pleader

JUDGMENT

[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.J.Lawrance, learned counsel for the appellant, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal by the writ petitioner is directed against the order passed in W.P.(MD)No.2665 of 2013, dated 11.06.2019. The appellant sought for a direction upon the respondent Society to pay



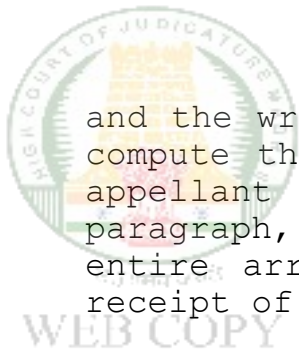
the subsistence allowance with all arrears payable to the writ petitioner from the date of suspension i.e., 09.12.2004, till final orders were passed in the enquiry proceedings, dated 15.09.2012 after deducting payment made by the respondent. The writ petition was disposed of by directing the writ petitioner to avail the revisional remedy under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. In paragraph 3 of the impugned order, the Court has recorded the statement of the learned counsel for the respondent that the demand of subsistence allowance has been paid. After recording the same, the Court has directed that if any due amount remains unpaid, the same is also to be settled in accordance with the Rules.

3. Necessarily, we need to point out that the writ petitioner has not been informed by the respondent society that his request for payment of subsistence allowance is accepted or rejected. In other words, the society has not passed any orders on the representation. In such circumstances, the writ petitioner cannot be directed to file a revision under Section 153 of the Act. It is seen that a sum of about Rs.30,000/- has been paid. Further, it is to be noted that the subsistence allowance is required to be paid to an employee as soon as he placed under suspension till the final orders are passed in the disciplinary proceedings which have been initiated.

4. In the instant case, the appellant was placed under suspension on 09.12.2004 and by proceedings dated 20.01.2006, he was removed from service. This order was put to challenge by filing a revision petition before the Joint Registrar of Cooperative Societies, Dindigul, who by an order, dated 25.08.2011, allowed the revision petition setting aside the order of removal from service and directed *de novo* proceedings to be conducted. Thereafter, proceedings were conducted and an order of removal from service has been passed on 05.09.2012, which has been challenged by the appellant in W.P.(MD)No.2665 of 2013.

5. In the interregnum, the writ petitioner submitted a representation on 22.08.2012 for payment of subsistence allowance. This has not been considered and the payments have not been settled. The appellant would be entitled for subsistence allowance from the date of suspension, till the date of removal from service i.e., on 20.01.2006. Subsequently, because of the order passed by the Joint Registrar setting aside the order of removal, it is deemed that the writ petitioner should be placed under suspension and paid subsistence allowance till the second order of removal was passed on 15.09.2012.

6. If the above had been directed to be done, then it would have met the ends of justice. However, the learned writ Court having not granted such relief, we are constrained to interfere with the order passed in the writ petition. Accordingly, this writ appeal is allowed and the order passed in the writ petition is set aside



and the writ petition is disposed of by directing the respondent to compute the subsistence allowance payable to the writ petitioner / appellant taking note of the observations made in the preceding paragraph, deduct the amount, if any already paid, and settle the entire arrears within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

Ta

To

The Special Officer,
A:1626, Pudupatti Primary Agriculture
Cooperative Bank,
P.Pudupatti, Vendasandur Taluk,
Dindigul District.

+1 CC to M/s.J.LAWRANCE, Advocate SR-95699.

ORDER MADE IN
W.A. (MD)No.1119 of 2019
01.11.2019

CS (14.11.2019) 3P 3C