

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.11.2020

Coram

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.23799 of 2014

and

WMP No.32587 of 2017

and

MP No.2 of 2014

R. Padmanathan

...Petitioner

-vs-

1. Joint Registrar of Co-operative Societies,
Collectorate Complex,
Nagapattinam (Po) & Dt.

2. Deputy Registrar of Co-operative
Societies, Deen Buildings,
Mayiladuthurai (Po) & (Tk).

3. The President,
Kathiruppu Primary Agricultural
Co-operative Credit Society Ltd.,
Annankoil(po)
Sirkali (Tk)
Pin : 609 109.

...Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue writ of Certiorari calling for the records of the third respondent relating to his Memo No.Rc.2/2013 dated 17.08.2013 and quash the same and consequently direct the respondents to pay the current wages to the petitioner from the date of his reinstatement on 12.04.2012 with the benefits of increment, wage revision etc. and also to pay the subsistence allowance for the period from 01.04.2007 to 11.04.2012 in accordance with the provisions of the Tamil nadu Payment of Subsistence Allowance Act.

For Petitioner : Mr.P.Anbarasan

For Respondents : Mr.L.P.Shanmugasundaram

Spl. Govt. Pleader (Co-op)

ORDER

The petitioner has come up with this writ petition to quash the Memo No.Rc.2/2013 dated 17.08.2013 of the third respondent and for a consequential direction to the respondents

to pay the current wages to the petitioner from the date of his reinstatement on 12.04.2012 with the benefits of increment, wage revision etc. and also to pay the subsistence allowance for the period from 01.04.2007 to 11.04.2012 in accordance with the provisions of the Tamil Nadu Payment of Subsistence Allowance Act.

2. It is the case of the petitioner that he joined as Attender in Kathiruppu Primary Agricultural Co-operative Credit Society Ltd., Kathiruppu, Annankoil post, Sirkali taluk. Whiles, due to certain malpractice indulged by the Secretary of the Society, all staff of the Society were proceeded with by way of disciplinary action, pursuant to which, he was suspended from service on 20.10.2000. Based on charges, a criminal case was filed by the 2nd respondent. Challenging the disciplinary action, he filed writ petition, however, subsequent to the completion of enquiry, the charges against the petitioner was held proved. However, in view of the pendency of the criminal case, the directions of this Court, in W.P. No.14786 of 2001, vide order dated 16.08.2001 was not implemented. Therefore, the petitioner filed contempt petition in which directions were given for payment of subsistence allowance. However, subsequent to the said order, the petitioner was reinstated in service from 12.04.2012 by the 3rd respondent. Thereafter, the petitioner filed claim petition before the Assistant Commissioner of Labour, Trichy, for payment of subsistence allowance for the period from 01.04.2007 to 11.04.2012, as subsistence allowance was paid only for the period from 20.10.2000 to 31.03.2007. Since proper wages were not paid after reinstatement, the petitioner submitted representations claiming the proper wages. Since subsistence allowance for the period 1.4.2007 to 11.4.2012 was not paid and proper wages in terms of the wage revision were not given to the petitioner and the representation of the petitioner having been negatived by the respondents, the present writ petition has been filed.

3. Learned counsel for the petitioner submits that though suspension order issued to the petitioner was revoked and he was reinstated in service, his claim for proper wages in terms of the wage revision was rejected. Thus by issuance of order of reinstatement dated 31.03.2012 by the 3rd respondent, the petitioner is entitled to receive subsistence allowance for the period from 01.04.2007 to 11.04.2012. Hence, it would suffice that this Court may issue direction to the respondents to consider the claim of the petitioner in accordance with law, within a time frame.

4. Per contra, learned Special Government Pleader appearing for the respondents submitted that the respondents are facing financial constraints. Referring to para 7 of the

counter affidavit, he submitted that inspite of financial constraints, respondents have paid a huge sum of Rs.3,66,946/-, as subsistence allowance to the petitioner. Reiterating the contentions as found in paragraphs 11 and 12 of the counter affidavit, he fairly conceded that the petitioner is entitled for wage revision with effect from 01.04.2013, as per settlement under Section 18 (1) of the I.D. Act. Therefore, he fairly concedes that direction may be issued by this Court to the respondents to consider the claim of the petitioner, within a time frame prescribed by this Court.

5. In view of the fair stand taken by the learned counsel on either side, this Court without going into the merits of the case, issues a direction to the respondents to consider the claim of the petitioner, as per 18(1) settlement for wage revision and also payment of subsistence allowance from 01.04.2007 to 11.04.2012 and pass orders on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. Joint Registrar of Co-operative Societies,
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Nagapattinam (Po) & Dt.

2. Deputy Registrar of Co-operative Societies, Deen Buildings,
Mayiladuthurai (Po) & (Tk).

3. The President,
Kathiruppu Primary Agricultural
Co-operative Credit Society Ltd.,
Annankoil(po), Sirkali (Tk), Pin : 609 109.

+1 CC to Mr.P.Anbarasan, Advocate sr 38113.

+1 Cc to The Special Government Pleader(CO OP) sr 37764.

W.P. No.23799 of 2014

GJ(CO)

SP(31/12/2020)