



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.8231 of 2021

A.Mayilvaganan

... Petitioner

-Vs-

1.The Assistant Commissioner of Labour,
Dindigul,
Dindigul District.

2.The Special Officer,
MM69, L.N.Samudram Primary Agricultural
Co-operative Society,
L.N.Samudram Post,
Vadivelnagar,
Karur District.

3.The President,
MM69, L.N.Samudram Primary Agricultural
Co-operative Society,
L.N.Samudram Post,
Vadivelnagar,
Karur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 2 & 3 to pay the subsistence allowance to the petitioner keeping in view of the order passed in P.S.A.5/2013, dated 28.03.2014 by the first respondent.

For Petitioner	: Mr. Velpradeep
For R1	: Mr.C.Ramesh Special Government Pleader
For R2 & R3	: Mr.B.Bhagavathi Government Advocate

ORDER

This Writ Petition is filed to direct the respondents 2 & 3 to pay the subsistence allowance to the petitioner in view of the order, passed in P.S.A.5/2013, dated 28.03.2014, by the first respondent.

2. Mr.C.Ramesh, learned Special Government Pleader takes notice on behalf of the first respondent and Mr.B.Bhagavathi,

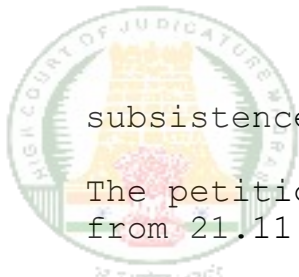


learned Government Advocate takes notice on behalf of the respondents 2 & 3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

3. According to the petitioner, he was working as Secretary (in-charge) of the L.N.Samudram Primary Agricultural Co-operative Society between 2008 and 2010. He was suspended from service on 21.12.2012 on the allegation that he manipulated some documents with regard to supply of fertilizers to the farmers by the Co-operative society. Charge memos, dated 22.04.2013 and 17.06.2013 were issued against the petitioner by the third respondent. He was not paid with subsistence allowance. Hence, he approached the first respondent, vide P.S.A.5/2013, seeking to pay the arrears of subsistence allowance. While deciding P.S.A.5/2013, dated 28.03.2014, the first respondent observed that the petitioner is entitled to get subsistence allowance and ordered to pay the arrears of subsistence allowance of Rs.43,225/-. Even after the order of the first respondent, the respondents 2 & 3 have stopped the payment of subsistence allowance from 01.06.2017. Hence, the petitioner has given a representation to the third respondent on 11.02.2021. Since no order was passed on the representation of the petitioner, he has come out with the present writ petition.

4. From the materials on record, it is seen that the petitioner was suspended from service with effect from 21.12.2012. The third respondent has not paid any subsistence allowance to the petitioner. The petitioner filed P.S.A.5/2013 before the first respondent. The first respondent considering the claim of the petitioner, by the order dated 28.03.2014, passed an order to the effect that the petitioner is entitled to subsistence allowance as follows:-

From 21.11.2012 to 20.02.2013 for 3 months 50% for 3 months	$\frac{50 \times 3 \times 17643}{100}$	= Rs.26,464.50
From 21.02.2013 to 20.05.2013 for 3 months 75% for 3 months	$\frac{75 \times 3 \times 17643}{100}$	= Rs.39,696.75
From 21.05.2013 to 20.07.2013 for 2 months 100% for 2 months	2×17643	= Rs.35,286.00
From 21.07.2013 to 31.07.2013 for 11 days 100% for 11 days	$\frac{11 \times 17643}{30}$	=Rs. 6,469.00
Total		----- 1,07,916.25 -----



subsistence allowance of	Rs.	1,07,916.25
The petitioner has received the same from 21.11.2013 to 30.06.2013 at	Rs.	64,691.00

Balance to be paid	Rs.	43,225.25

5. The petitioner received 50% of the subsistence allowance and the first respondent directed the third respondent to pay the balance amount of Rs.43,225.25/-.

6. From the order of the first respondent, it is seen that the petitioner is entitled to 100% subsistence allowance from 21.05.2013. According to the petitioner, there are arrears of subsistence allowance from 21.11.2012 to 31.05.2017, and the third respondent stopped the subsistence allowance from 01.06.2017. At the time of arguments, the learned counsel for the petitioner restricted his claim that if a direction is issued to the respondents 2 & 3 to pay the subsistence allowance from 01.06.2017, the petitioner would be satisfied.

7. In view of the same, the petitioner is entitled to subsistence allowance while he was under suspension during domestic enquiry. It is not the case of the third respondent that domestic enquiry is delayed due to the attitude of the petitioner.

8. Considering the above facts, the third respondent is directed to pay the subsistence allowance from 01.06.2017 as applicable to the petitioner.

9. In the result, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

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/ /2021

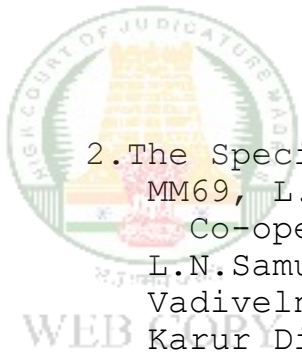
Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Assistant Commissioner of Labour,
Dindigul,
Dindigul District.

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



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MM69, L.N.Samudram Primary Agricultural
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+1 CC to M/s.I.VELPRADEEP, Advocate (SR-16849[F] dated 21/04/2021)

+1 CC to M/s.SPL GP (SR-17174[F] dated 22/04/2021)

W.P. (MD)No.8231 of 2021
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AS (24.05.2021) 4P 6C