



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2021

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

Cont.P.(MD) No.952 of 2021

in

W.P.(MD) No.7393 of 2020

WEB COPY

Packiyalakshmi

... Petitioner / Petitioner

Vs.

1. Mrs.R.Subhashini, M.B.A.,
Joint Registrar / Managing Director,
The Central Co-operative Bank Limited,
(A.314/2690) Head Office,
No: 4, M.G.R. Maligai,
Tiruvananthapuram Road,
Vanarapettai.
Tirunelveli district.

... Respondent / Respondent No.1

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, to punish the respondents herein for their wilful disobedience and non-compliance of the order passed by this Hon'ble Court made in W.P.(MD)No.7393 of 2020, dated 08.07.2020.

Prayer in WP(MD) . 7393/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified mandamus, calling for the records pertaining to the impugned charge Memo issued by the 1st respondent vide proceedings in Na.Ka.No. 33/2020/E1(2) dt. 24.02.2020 and quash the same as illegal and consequetnly direct the 1st respondent to reinstate the petitioner into service with all monetary and attended benefits.

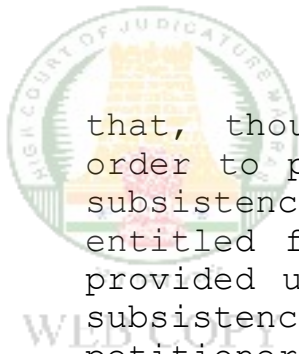
For Petitioner	: Mr.R.Karunanidhi
For Respondents	: Mr.D.Shanmugaraja Sethupathi
	Standing Counsel

ORDER

This contempt petition has been filed for the alleged disobedience of the orders passed before this Court dated 08.07.2020 made in W.P.(MD) No.7393 of 2020.

2.Today when this case is taken up for hearing, Mr.R.Karunanithi, learned counsel for the petitioner would contend

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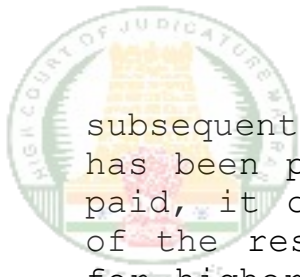


that, though a direction was given by this Court, in the said order to pay substance allowance arrears and to continue to pay subsistence allowance to the petitioner, since the petitioner is entitled for the same as per the rate of subsistence allowance provided under the Subsistence Allowance Act, but such rate of subsistence allowance has not been paid by the respondent to the petitioner. Therefore, according to the petitioner, it is the violation of the orders of this Court, therefore, he seeks indulgence of this Court.

3. Further, the learned Standing counsel appearing for the contesting respondent in the writ petition, on instructions would submit that the petitioner was suspended from service with effect from February 2020 and from that date he was paid the subsistence allowance at the rate of 50%. Thereafter, from October 2020 till July 2021, the enhanced subsistence allowance at the rate of 75% had been paid continuously, and in so far as in the month of August 2021, the amount would be credited to the account of the petitioner within two days, thereby, without any arrears or due, continuously the subsistence allowance has been paid. However, the controversy arose in this case is even though 50% and subsequently 75% of the subsistence allowance continuously being paid to the petitioner, the petitioner insisted that after 6 months period of suspension, if it is prolonged, the petitioner/employee would be entitled to get 100% subsistence allowance as per the provisions of the Subsistence Allowance Act. Therefore, by relying upon such provision, he seeks disbursal of 100 % subsistence allowance after 6 months period and since that has not been adjusted by the respondent and only 75 % of the subsistence allowance has been paid. He submits that it is the violation.

4. In this context, the learned Standing counsel appearing for the respondent would submit that, though six months time was given by this Court to complete the enquiry, the enquiry has been completed and the report is yet to be submitted. In the mean while, under Section 81 of the Tamilnadu Co-operative Societies Act also, the enquiry has been completed and the report has yet to come. Therefore, after completing these enquiries and after filing the reports in this regard, final orders would be passed by the disciplinary authority for which it should take at least 3 months time. Till such time, the petitioner shall be paid 75 % of the subsistence allowance and depending upon the outcome of decision to be made by the disciplinary authority, and on the basis of the enquiry report submitted in this regard, further action can be decided.

5. I have considered the aforesaid submissions of the learned counsel appearing for the parties and I have taken note of the



subsequent developments. Since till date, subsistence allowance has been paid initially @ 50% and subsequently, @ 75% has been paid, it cannot be taken as the wilful disobedience on the part of the respondents. Nevertheless, if the petitioner is entitled for higher subsistence allowance to the extent of 100%, in view of the provisions available under the Subsistence Allowance Act, whether, for the remaining amount, the petitioner can seek for his entitlement or not can be decided later on, depending upon the final orders would be passed by the disciplinary authority on the enquiry being conducted and for which this Court thinks that further two months time can be given, within which the respondent shall complete the enquiry and pass final orders. Once the final order is passed, depending upon the out come of the final order to be passed by the disciplinary authority, the remaining percentage of subsistence allowance and its entitlement of the petitioner can be decided later on. With the above liberty given to the petitioner, this contempt petition can be closed at this juncture. Accordingly, the contempt petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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.

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-30706[F] dated 30/09/2021)

Cont.P.(MD) No.952 of 2021 in
W.P.(MD) No.7393 of 2020
28.09.2021

KS(CO)

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