



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.3683 of 2012

and

M.P.No.1 of 2012

T917, Myladuthurai Consumer
Co-operative Wholesale Store Ltd.,
Rep. by its Special Officer,
5B, Narayanapillai Theru,
Myladuthurai - 609 991.

...Petitioner

-Vs-

1.The Appellate Authority under the
Payment of Subsistence Allowance Act,
Deputy Commissioner of Labour,
Trichy.

2.The Authority under the
Payment of Subsistence Allowance Act,
Deputy Commissioner of Labour,
Trichy.

3.T.Selvaraj.

...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 1st respondent in PSAA.No.2 of
2011 dated 21.11.2011 and confirming the order of the 2nd
respondent in PSA.Nos.10 & 11 of 2009 dated 24.03.2011 and quash
the same.

For Petitioner : Mr.M.S.Palaniswamy

For R1 & R2 : Mr.C.Selvaraj,
Additional Government Pleader

For R3 : Mr.R.Sankarasubbu



ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

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2. The only ground on which the petitioner substantiates that the subsistence allowance is not payable to the third respondent is that they intend to adjust the amount, for which they have obtained a favourable decree from a Civil Court.

3. The third respondent was placed under suspension from 01.02.2003 to 31.03.2008 and from 01.09.2008 to 30.06.2009. Subsequently, he was dismissed from service on 11.08.2009. The second respondent herein had passed orders for payment of the subsistence allowance of Rs.2,61,588/-, which order was confirmed, on appeal, by the first respondent herein on 24.03.2011. The payment of subsistence allowance to a suspended Government employee is a statutory right and the respondents will not be entitled to withhold such an allowance on the ground that the employee owes them some amount, which has been decreed by the Civil Court.

4. If at all the respondents are of the view that the amount under the Civil Court requires to be recovered, their only option is to execute the decree against any other permissible movable or immovable assets and the subsistence allowance, which is a statutory entitlement of the employee, cannot be touched. As such, I do not find any infirmity in the orders passed by the second and first respondents herein. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

SD/-

ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

hvk

To

1.The Appellate Authority under the
Payment of Subsistence Allowance Act,
Deputy Commissioner of Labour,
Trichy.



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2.The Authority under the
Payment of Subsistence Allowance Act,
Deputy Commissioner of Labour,
Trichy.

+1cc to Mr.R.Sankarasubbu, Advocate Sr.16936
+1cc to Mr.M.S.Palaniswamy, Advocate Sr.17096
+1cc to the Government Pleader Sr.17784

W.P.No.3683 of 2012
and
M.P.No.1 of 2012

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srg 25/03/2022