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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.13360 of 2022
and
W.M.P(MD)No.9478 of 2022

M/s.D.D.115, Palani Co-opearative Primary
Agricultural and Rural Development Bank Limited,
Palani, Dindigul District-624 601. ... Petitioner

Vs

1.The Authority under the Tamilnadu
Payment of Subsistence Allowance Act,
(Deputy Commissioner of Labour),
Collectorate Complex,
Dindigul-624 004.

2.A.Sivakumar ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent relating to P.S.A.Nos.1/20 and 1/22, quash the common order, dated 14.03.2022 passed therein, grant such other relief(s) as expedient to the facts and circumstances of the matter.

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For Petitioner : Mr.S.Seenivasagam

For Respondents : Mr.A.K.Manikkam
Special Government Pleader for R.1

Mr.R.Saravanan for R.2

ORDER

Heard the learned counsel on either side.

2. The second respondent was employed as Supervisor in the writ petitioner Society. He was suspended from service on 16.04.2019, on the strength of the enquiry report submitted under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983. The writ petitioner questioned the said enquiry report and obtained an order of interim stay on 29.04.2019. As a result of the said interim order, the proceedings against the second respondent herein could not take off. The writ petition came to be dismissed only on 12.08.2020. Thereafter, the disciplinary proceedings resumed and the second respondent was eventually dismissed on 04.05.2021. The second respondent moved the authority under the Tamil Nadu Payment of Subsistence Allowance Act for claiming subsistence allowance. The said authority, by the impugned order directed the writ petitioner to pay subsistence allowance even for the period that was covered by the interim order of stay. Questioning the same, this writ petition came to be filed.

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3. A number of contentions were raised including jurisdiction. Without going into the said contentious aspects, I am of the view that the writ petition can be disposed of on a short ground. Admittedly, the disciplinary proceedings against the second respondent could not take off only because the second respondent obtained an interim order of stay in W.P(MD)No.10908 of 2019. The interim order was in force from 29.04.2019 to 12.08.2020. At the instance of the second respondent, the proceedings came to a standstill. The second respondent cannot parallelly demand that he should be paid subsistence allowance for the said period also. However, the writ petitioner is obliged to pay subsistence allowance for a period from 12.08.2020 till the date of dismissal, i.e., 04.05.2021.

4. The writ petitioner through their counsel gives an undertaking that the said amount will be paid to the second respondent within a period of four weeks from the date of receipt of a copy of this order. The quantum of allowance will be computed as per the relevant service regulations. It is submitted that for a period prior to 29.04.2019, the second respondent has already been paid subsistence allowance. The order impugned in the writ petition is set aside with the aforesaid direction to the writ petitioner to pay

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subsistence allowance to the second respondent for the period from 12.08.2020 from 04.08.2021. The subsistence allowance that has already been paid shall not be recovered nor adjusted.

5. This writ petition is disposed of accordingly. Consequently, connected miscellaneous petition is closed. No costs.

16.09.2022

Index : Yes / No
Internet : Yes/ No
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To

The Deputy Commissioner of Labour
Authority under the Tamilnadu
Payment of Subsistence Allowance Act,
Collectorate Complex,
Dindigul-624 004.

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G.R.SWAMINATHAN, J.

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