



W.P.No.15116 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.15116 of 2021
and W.M.P.Nos.16013 & 16017 of 2021

R.Murugesan

... Petitioner

Vs.

1.The Chairman

Common Cadre Authority,
Joint Registrar of Cooperative Societies,
Krishnagiri Region, Krishnagiri,
Krishnagiri District.

2.The Deputy Registrar of Co-operative Societies,

House Circle,
Hosur, Krishnagiri District.

3.The President,

S.836, Rayakottai Primary Agricultural
Cooperative Credit Society Limited,
Rayakottai Village and Post,
Denkanikottai Taluk
Krishnagiri District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the first respondent in



W.P.No.15116 of 2021

his proceedings Na.Ka.No.6780/2019/Poe.Pa.Ni.Thi, dated 25.06.2021 and quash the same and consequently direct the respondents to disburse the arrears of the subsistence allowance together with 15% interest to the petitioner.

For Petitioner : Ms.S.Hemalatha, for
Mr.C.Prakasam

For Respondents : Mr.P.Sanjai Gandhi
Government Advocate

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.6780/2019/Poe.Pa.Ni.Thi, dated 25.06.2021 and quash the same and consequently direct the respondents to disburse the arrears of the subsistence allowance together with 15% interest to the petitioner.

2. Heard Ms.S.Hemalatha, learned counsel for the petitioner and Mr.P.Sanjai Gandhi, learned Government Advocate appearing for the respondents.



W.P.No.15116 of 2021

3. The petitioner was working as a Secretary in Royakottai Primary Agricultural Co-operative Society, Royakottai. The petitioner has been issued with summons under Section 81 of the Tamil Nadu Co-operative Societies Act, for seeking his explanation regarding some discrepancies in the accounts of the Society which caused huge loss to the Society. The petitioner has filed a Writ Petition in W.P.No.13635 of 2014 seeking a direction to forbear the third respondent from conducting enquiry under Section 81 of the Act pursuant to the audit report dated 29.05.2013. The said Writ Petition was disposed on 14.05.2014 by making an observation that the petitioner shall participate in the enquiry. Thereafter, the enquiry was conducted and the petitioner was found guilty and was suspended from service on 12.12.2014. Since subsistence allowance was not paid to the petitioner after his suspension, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the petitioner was not paid with subsistence allowance during the period of his suspension and the claim made by the petitioner seeking subsistence allowance was also rejected by the third respondent on the ground that



W.P.No.15116 of 2021

the petitioner is not entitled to get subsistence allowance. Thereafter, the petitioner has approached the competent Authority under Payment of Subsistence Allowance Act and the said Authority has passed an order directing the third respondent to pay subsistence allowance to the petitioner. However, the third respondent has passed the impugned order on 25.06.2021 against the petitioner, to appear before him for concluding the disciplinary proceedings, without payment of subsistence allowance.

5. The learned Government Advocate for the respondents submitted that after conducting proper enquiry, the statutory Enquiry Officer submitted her report on 02.06.2014 by recommending to take disciplinary and surcharge proceedings and criminal action against the petitioner. It is submitted that as per the provisions of Sections 2(18) and 84 r/w Bylaw No.38(1) and Section 3 of the Tamil Nadu Payment of Subsistence Act, the petitioner in his capacity as Secretary, is not entitled to get subsistence allowance. Hence, this Writ Petition should be dismissed.



W.P.No.15116 of 2021

WEB COPY

6. The grievance of the petitioner is that though he was suspended in the year 2014, till now he was not paid with the subsistence allowance. The law is well settled on this point that the subsistence allowance should be paid to the employee during the period of his suspension. Therefore, I feel it is appropriate to direct the petitioner to make a representation to the respondents for granting subsistence allowance.

7. In the result, this Writ Petition is disposed and the petitioner is at liberty to make a representation to the respondents for granting subsistence allowance within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the respondents shall consider and pass orders to grant subsistence allowance, within a period of four weeks thereafter. Consequently, connected miscellaneous petitions are closed. No costs.

21.11.2023

Index : Yes
Internet : Yes/No
gsk



WEB COPY



W.P.No.15116 of 2021

R.N.MANJULA, J.

gsk

To

- 1.The Chairman
Common Cadre Authority,
Joint Registrar of Cooperative Societies,
Krishnagiri Region, Krishnagiri,
Krishnagiri District.
- 2.The Deputy Registrar of Co-operative Societies,
House Circle,
Hosur, Krishnagiri District.
- 3.The President,
S.836, Rayakottai Primary Agricultural
Cooperative Credit Society Limited,
Rayakottai Village and Post,
Denkanikottai Taluk
Krishnagiri District.

W.P.No.15116 of 2021
and W.M.P.Nos.16013 & 16017 of 2021

21.11.2023