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W.P.No.41117 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.41117 of 2016

And

W.M.P.No.35107 of 2016

S.512 – Vilangamudi Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its President

... Petitioner

Vs.

1.The Authority under the Tamilnadu
Payment of Subsistence Allowance Act /
The Assistant Commissioner of Labour,
Salem.

2.V.Arumugam

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the records of the order passed
by the first respondent in PSA.No.10 of 2015 dated 20.09.2016
quash the same.

For Petitioner : Mr.P.K.Shivakumar
For Respondents : Mr.M.Prem Kumar for R1
Government Advocate
Mr.G.Punniyakotti for R2



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ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorari calling for the records of the order passed by the first respondent in PSA.No.10 of 2015 dated 20.09.2016 and to quash the same.

2.The case of the petitioner is that the second respondent while working as Attender was given charge of Secretary of the petitioner society and was found to have committed misappropriation in connivance with one M.Srinivasan, the then Secretary of the society, for which, a criminal case was registered as against the second respondent in Crime No.2 of 2014 for the offence under Sections 420, 406, 408, 468, 471, 477A, 120-B read with 34 of I.P.C.

3.The further case of the petitioner is that the second respondent apprehending disciplinary proceedings and criminal proceedings, absented from duty from 23.06.2013 and hence, enquiry was conducted and the second respondent did not participate in the enquiry and remained exparte. Thereafter, based on the enquiry report, the second respondent was suspended from service on 25.10.2013 and second show cause notice was issued to the second



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respondent. The second respondent did not submit his explanation and the petitioner after verifying the records, vide order dated 21.08.2015 dismissed the second respondent from service.

4.The further case of the petitioner is that the second respondent approached the first respondent by filing a petition in PSA.No.8 of 2014 claiming subsistence allowance from 26.10.2013 to 25.05.2014 a sum of Rs.2,13,736/- and the first respondent vide order dated 27.03.2015 directed the petitioner to pay a sum of Rs.75,961/- towards subsistence allowance to the second respondent. Thereafter, the second respondent again approached the first respondent by filing a petition in PSA.No.10 of 2015 on 03.08.2015 claiming subsistence allowance from 26.05.2014 to 21.08.2015 and the first respondent directed the petitioner to pay a sum of Rs.2,29,080/- towards subsistence allowance to the second respondent. Challenging the same, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner submitted that as against the impugned order, there is effective appeal remedy available to the petitioner before the Appellate Authority in terms of



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Section 5A of the Tamil Nadu Payment of Subsistence Allowance Rules, 1981. Hence, this Court, without going into the merits of the case, may grant liberty to the petitioner to exhaust the appeal remedy and issue direction to the competent Authority to consider the same and pass appropriate orders within a reasonable time frame.

6.Considering the limited request now made by the learned counsel appearing for the petitioner, this Court, without expressing any opinion on the merits of the case, permits the petitioner to file appeal in terms of Section 5A of the Tamil Nadu Payment of Subsistence Allowance Rules, 1981 before the competent Authority, within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed by the petitioner, the competent Authority shall consider the same and pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter.

7.The writ petition is disposed of with the above observation. No costs. Consequently, the connected miscellaneous petition is closed.



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pri
Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

To

- 1.The Authority under the Tamilnadu
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