



W.P.(MD).No.18344 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.18344 of 2023

and

W.M.P(MD)No.15239 of 2023

The Manager,
M.P. 12, Highways Group Employees
Co-operative Stores Limited,
Manalaar Post,
Uthamapalayam Taluk,
Theni District.

... Petitioner

Vs.

1.V.Ebenezer

2.The Deputy Commissioner of Labour,
Collectorate, Dindigul.

3.The Deputy Registrar of Co-operative
Societies, Office of the Deputy Registrar,
L.D. Bank 1st Floor, Uthamapalayam Post and Taluk,
Theni District.

4.The Manager,
Bank of Baroda,
Uthamapalayam Branch,
Theni District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, call for the records relating to the Impugned Award / Order No:PSA 01/2021, dated 08.05.2023 on the file of the second respondent and quash the same as illegal.

For Petitioner : Mr.R.Thirugnanasambandam
For R-1 : Mr.T.Ravichandran
For R-2 & R-3 : Mr.T.Villavan Kothai
Additional Government Pleader
For R-4 : Mr.K.Muralidharan

ORDER

The present writ petition has been filed by the Management challenging the order passed by the second respondent herein under the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

2. According to the learned Counsel appearing for the Management, the petitioner was gainfully employed on a commission basis in Bank of Baroda during the period of suspension and hence, he is not entitled to receive subsistence allowance. He further contended that the petitioner was suspended on 29.05.2019 and he was dismissed from service on 23.12.2020. Between June



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2019 and October 2019 subsistence allowance has already been paid. From November 2019 till December 2020, subsistence allowance was not paid on the ground that the first respondent herein was gainfully employed elsewhere. He further pointed out that they have examined the Manager of Bank of Baroda with whom the first respondent herein is said to have some business correspondence. Therefore, the contention of the writ petitioner makes it clear that the writ petition is sought to be argued on merits.

3. A perusal of the Tamil Nadu Payment of Subsistence Allowance Rules, 1981, Rule 5A points out that a statutory appeal lies as against the order passed by the original authority. In view of the effective alternative remedy, the present writ petition is not maintainable. The learned Counsel appearing for the writ petitioner seeks liberty to file the statutory appeal. Since the period of limitation has already crossed, he seeks extension of time.

4. In case if any appeal is presented on or before **06.12.2023**, the same shall be entertained by the Appellate Authority without any reference to the period of limitation and the same may be decided on merits and in accordance with law.



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5. With the above said observation, this writ petition stands disposed of.

There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

- 1.The Deputy Commissioner of Labour,
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- 2.The Deputy Registrar of Co-operative
Societies, Office of the Deputy Registrar,
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- 3.The Manager,
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R.VIJAYAKUMAR, J.

BTR

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