



W.P.(MD).No.3814 of 2014

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.3814 of 2014

and

M.P.(MD).No.1 of 2014

Veeravanallur Primary Agricultural
Co-operative Bank Limited, No.Y-158,
Arumanallur, Kanyakumari District,
Represented by its President.

... Petitioner

Vs.

1.A.Nagarajan

2.The Deputy Commissioner of Labour,
(Appeal Authority under Tamil Nadu Payment of
Subsistence Allowance Act),
Trivandrum Road,
Palayamkottai,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in his file PSA (A) No.9/2012 dated 24.12.2012 and quash the order of the second respondent



W.P.(MD).No.3814 of 2014

and direct the second respondent to refund the deposited amount of Rs.68,353/- to the petitioner and such other appropriate directions and grant such other remedy and relief to this petitioner.

For Petitioner : Mr.G.Manivannan

For R-1 : Mr.K.R.Laxman

For R-2 : Mr.P.Thambidurai,
Government Advocate.

ORDER

This Writ Petition is filed by the Society challenging the order dated 24.12.2012 passed by the second respondent and direct the second respondent to refund the deposited amount of Rs.68,353/- to the petitioner.

2. The first respondent is an employee working as Secretary in the petitioner's Cooperative Bank Limited. The contention of the petitioner's Cooperative Bank is that the Tamil Nadu Subsistence Allowance Act is not applicable to the Society, since the Society has separate by-law and based on the by-law, the first respondent is entitled to subsistence allowance. However, the authority prescribed under the Act will not be the authority to decide the



W.P.(MD).No.3814 of 2014

issue. The petitioner Cooperative Bank has produced the by-laws of the Society. On perusal of the by-law under Regulation 31(2), it has been stated that the authority competent to suspend an employee may grant to the employee suspended, subsistence allowance in accordance with the provisions of the Tamil Nadu Payment of Subsistence Allowance Act, 1981. If there is any grievance against the by-law, the affected party is having a remedy before the Joint Registrar of Co-operative Society.

3. Therefore, this Court is of the considered opinion that the second respondent is not the competent authority to decide the issue. Only the Joint Registrar of Co-operative Society is the authority, in case, if the first respondent was not paid any subsistence allowance. Therefore, this Court is inclined to set aside the order passed by the second respondent, since the order is passed without jurisdiction and the impugned order is set aside. However, the first respondent is entitled to subsistence allowance, since the petitioner has deposited the amount before the second respondent, the second respondent is directed to disburse the amount to the first respondent. In case, if the first respondent is aggrieved, he is further directed to approach the Joint Director of Co-operative Society and not the Deputy Commissioner of Labour.



W.P.(MD).No.3814 of 2014

WEB COPY

4. In view of the above, this Writ Petition is allowed in above terms.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

23.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

The Deputy Commissioner of Labour,
(Appeal Authority under Tamil Nadu Payment of
Subsistence Allowance Act),
Trivandrum Road,
Palayamkottai,
Tirunelveli District.



WEB COPY



W.P.(MD).No.3814 of 2014

S.SRIMATHY, J.

Nsr

W.P.(MD).No.3814 of 2014

23.02.2023