



W.P.(MD).No.16156 of 2015

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.16156 of 2015

and

M.P.(MD).No.1 of 2015

President,
E.E.444, Sawyerpuram,
Primary Agricultural
Co-operative Credit Society,
Sawyerpuram,
Thoothukudi District.

... Petitioner

Vs.

1.P.Nallasivan

2.The Assistant Commissioner of Labour,
106, Trivandrum Road,
Tirunelveli - 627 002.

3.The Deputy Commissioner of Labour,
106, Trivandrum Road,
Tirunelveli – 627 002.

... 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, to call for the records pertaining to the order dated 31.12.2014 in PSA Appeal Number 16/2013 passed by the third respondent, quash the same, award costs.

For Petitioner : Mr.G.M.Xavier

For R-1 : Mr.M.P.Senthil

For R-2 and R-3 : Mr.J.John Rajadurai,
Government Advocate.

ORDER

This Writ Petition is filed for Writ of Certiorari to quash the order dated 31.12.2014 passed in PSA Appeal No.16 of 2013 by the third respondent.

2. This petition was filed by the President of the Primary Agricultural Cooperative Credit Society stating that the first respondent had worked as a Secretary in this Society. The post of Secretary will come under the “Common Cadre Service”. Moreover, the said post comes under Administrative cadre. Hence, the Payment of Subsistence Allowance Act is not applicable to the first respondent.



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3. This Court has dealt with this issue, wherein it has been held that the Payment of Subsistence Allowance Act is not applicable to the post of Secretary. Hence, the impugned order is passed without jurisdiction. However, the by-law of Society prescribes the payment of subsistence allowance. Therefore, the petitioner is directed to pay subsistence allowance to the first respondent as per the by-law of the Society. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

4. In view of the above, the impugned order is quashed and the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

15.02.2023

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



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To
WEB COPY

- 1.The Assistant Commissioner of Labour,
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S.SRIMATHY, J.

Nsr

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