



W.A(MD)No.386 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.03.2023

CORAM :

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.A(MD)No.386 of 2022

P.Subramani

... Appellant

vs.

1. The Registrar of Co-operative Societies,
170, E.V.R. High Road,
Kelpauk,
Chennai.

2. The Joint Registrar of Co-operative Societies,
Collectorate,
Thanthonimalai,
Karur District.

3. The President,
R-240, K.N.Pudur Primary Agricultural
Co-operative Credit Society,
N.Pudur, Nanniyoor Post,
Karur District.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of Letters
Patent, against the order dated 17.09.2019 passed in
W.P(MD)No.7329 of 2015.



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For Appellants : Mr.I.Suthakaran
For R1 & R2 : Mr.K.S.Selvaganesh
For R3 : Mr.M.Saravanakumar

JUDGMENT

**(Judgment of the Court was made by
R.SUBRAMANIAN, J.)**

The appellant/writ petitioner is aggrieved by the dismissal of his writ petition challenging the reduction of the subsistence allowance payable to him by the third respondent in his proceedings dated 31.03.2015.

2. The main ground on which the subsistence allowance was reduced to 50% is that the appellant has not co-operated with the enquiry. The issue relating to payment of subsistence allowance is governed by the Tamil Nadu Payment of Subsistence Allowance Act, 1981. Section 3 which provides for payment of subsistence allowance reads that an employee shall be entitled to receive entire salary as subsistence allowance, if the suspension exceeds 180 days. Admittedly, in the case on hand, suspension has exceeded 180 days and the employee was



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being paid entire salary as subsistence allowance prior to the reduction. The reduction has been made on the ground that the delinquent employee has not co-operated for the enquiry. We do not think such an order could be sustained in view of the clear provisions of the Act which do not empower the disciplinary authority to reduce subsistence allowance on the ground of non co-operation by the employee. The Writ Court had, however, dismissed the writ petition on the ground that the language of Section 3 gives an indication that the object behind the proviso was to prevent any mischief. Though there is some delay on the part of the appellant, major delay is attributable to the respondents only. Despite the fact that the appellant has been repeatedly contending that the President of the Society does not have jurisdiction to conduct an enquiry against him, the enquiry proceedings were kept pending before the President and they are eventually transferred to the Joint Registrar of Co-operative Societies, Karur Division, only on 10.05.2022.



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3. We, therefore, find that the appellant alone cannot be blamed for the delay in the conduct of enquiry. The respondents have also contributed to a certain extent. It is stated that criminal proceedings are also pending. In any event, the reasons for the delay that are attributable to the Management are more stronger than the reasons for the delay attributable to the appellant. We do not think that the Writ Court was justified in refusing to interfere with the order passed by the disciplinary authority as it now turns out that the President namely, the 3rd respondent was not the disciplinary authority at all and it is only the Joint Registrar who should have conducted the enquiry. Therefore, on the ground of jurisdiction also, the order impugned in the writ petition ought to have been set aside.

4. In view of the above, the Writ Appeal stands allowed and the order of the Writ Court is set aside. We, however, make it clear that the appellant would be entitled to full subsistence allowance from the month of March 2023 till completion of enquiry. The respondents will do well to complete the enquiry



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within a period of four months from the date of receipt of a copy
of this judgment. No costs.

NCC : Yes / No
Index : Yes / No
Internet : Yes
bala

[R.S.M.,J.] & [L.V.G.,J.]
13.03.2023

To

1. The Registrar of Co-operative Societies,
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2. The Joint Registrar of Co-operative Societies,
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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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JUDGMENT MADE IN
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