



W.P.No.910 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.04.2024

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.910 of 2022

S.Sekar

.. **Petitioner**

Vs.

1.The Collector
Thiruvannamalai District, Thiruvannamalai.

2.The Tahsildhar
Arani Taluk, Arani, Thiruvannamalai District.

3.The Special Officer
HH 261,Vinnamangalam Primary Agricultural
Co-Operative Credit Society
Vinnamangalam Village and Post
Arani Taluk- 632 316, Thiruvannamalai District.

.. **Respondents**

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, directing the 1st respondent to recover the amount as per the recovery certificate dated 13.03.2020 issued by the authority under the payment of Subsistence Allowance Act, 1981 and pay it to the petitioner.



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For the Petitioner : Mr.S.T.Varadarajulu

For the Respondents : Mr.Stalin Abimanyu
Additional Government Pleader
for RR1 & 2
Mrs.S.Anitha
Special Government Pleader
for R3

ORDER

Heard, *Mr.S.T.Varadarajulu*, learned counsel appearing on behalf of the petitioner and *Mr.Stalin Abimanyu*, learned Additional Government Pleader appearing for the respondents 1 & 2 and *Mrs.S.Anitha*, learned Special Government Pleader appearing for the 3rd respondent.

2.It is the case of the petitioner that when he was working as a Cashier in the 3rd respondent Co-operative Society, he was suspended from service. Claiming that he is covered under the payment of Subsistence Allowance Act, 1881, the petitioner had approached the Deputy Commissioner of Labour under the said Act, for payment of subsistence allowance.



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3.An order was passed on 25.05.2017, determining the sum of Rs.1,74,835/- as subsistence allowance payable to the petitioner and further the 3rd respondent was directed to pay the same. The 3rd respondent did not pay the subsistence allowance even thereafter. Therefore, the Deputy Commissioner of Labour under the Payment of Subsistence Allowance Act, granted the recovery certificate dated 13.03.2020 to pay the amount to the petitioner at the earliest. In spite of the same, the 1st respondent has done nothing.

4.The 3rd respondent, has filed a counter by stating that the petitioner is not even eligible for subsistence allowance. It is essential to extract paragraph No.4 (c and d) of the counter affidavit,

“c) It is submitted that if the petitioner aggrieved by the order of dismissal dt.12.04.2016, he ought to have preferred Revision Petition u/s 153 of the Act, 1983 before the Regional Joint Registrar of Coop Societies, Tiruvannamalai Region, Tiruvannamalai District within 60 days from the date of receipt of order of dismissal. But the petitioner failed to do so.

d) It is submitted that no payment of subsistence allowance shall be made unless the member has furnished a



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certificate of non-employment and authority passing the order of suspension is satisfied that the suspended employee was not engaged in any other employment, business, profession or vocation and other employment and that he had not earned remuneration during the periods of his suspension. It is submitted that it is the duty cast upon the charged suspended employee/Writ Petitioner herein has to submit to the effect he is residing in the head-quarters and he was not employed anywhere during the suspension period. The charged suspended employee to claim subsistence allowance has to submit monthly certificate to the effect of the above. In the instant case, the 3rd respondent management kept sanction subsistence allowance to the petitioner every month. But unable to disburse the monthly subsistence allowance to the petitioner as the petitioner has not submitted required mandatory certificate to claim subsistence allowance.”

5.As far as the case of the 3rd respondent that no subsistence allowance is payable, it is for the 3rd respondent to take appropriate steps against the order of the statutory authority. After the order has been passed by hearing the 3rd respondent, and when the recovery certificate has been issued under the Review Recovery Act, the 1st respondent, the statutory authority has a statutory duty to proceed further with the Review Recovery Act and recover the amount from the 3rd respondent Society and pay the same to the petitioner.



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6.For any reason, if the 3rd respondent is aggrieved by the said direction or if no such amount is payable, it is for the 3rd respondent to take such steps against the original order dated 25.05.2017 and also the recovery certificate dated 13.03.2020. So long as the said orders are in force, the 1st respondent, being the statutory authority has to give effect to the Revenue Recovery Certificate.

7.In view thereof, the Writ Petition stands allowed, with a direction to the 1st respondent to recover the amount as per the Revenue Recovery Certificate dated 13.03.2020 within a period of eight weeks from the date of receipt of a copy of this order. No costs.

08.04.2024

Index : Yes
Neutral Citation : No
Speaking order : Yes

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D.BHARATHA CHAKRAVARTHY, J.

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To

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