



WEB COPY



W.P.No.8359 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8359 of 2024

R.Siriyadurai

... Petitioner

-Vs-

1. The Joint Registrar of Co-operative Societies,
Salem Reign,
Salem.
2. The Deputy Registrar of Co-operative Societies,
Salem Circle,
Cherry Road,
Salem-636007.
3. The Administrator,
S.9787 K.Kondappanaickanpatty
Primary Agricultural Co-operative Society,
K.Kondappanaickanpatty,
Salem (Dt).

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to pay the subsistence allowance from 28.09.2017 to till date with interest of 14 percentage and considering the petitioner's final representation dated 15.03.2024.



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For Petitioner : Mr.L.P.Shanmugasundaram
For R1 and R2 : Mr.P.Sathish
Additional Government Pleader

ORDER

This writ petition has been filed for direction directing the respondents to pay the subsistence allowance from 28.09.2017 to till date with interest of 14 percentage and considering the petitioner's final representation dated 15.03.2024.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner was appointed as Secretary in the third respondent Society from 12.06.1991 to 28.09.2017. He was suspended from service on 28.09.2017, on the ground that the enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act is pending. Pursuant to the enquiry report, surcharge proceeding was initiated as against the petitioner. In the surcharge proceeding, it was ordered to recover the amount which was misappropriated by the petitioner. Aggrieved by the



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same, the petitioner preferred an appeal and it is pending before the Co-operative tribunal. In the meanwhile, the petitioner submitted a representation seeking subsistence allowance during the period of his suspension. The petitioner was suspended from service on 28.09.2017.

4. A perusal of the by-law of the Co-operative Society under the Clause 31 deals with suspension. It reads that an employee under suspension shall not be allowed to retire on attaining the age of superannuation. His suspension shall be deemed to have been extended till the disposal of the disciplinary proceedings against him. During the extended period, the service rights accrued to the employee shall freeze on the date of superannuation and the employee shall not be entitled for subsistence allowance.

5. The petitioner was suspended from service two days before his date of superannuation, on the ground that the enquiry is pending under Section 81 of the Tamil Nadu Co-operative Societies Act. The disciplinary proceeding is not yet over as against the petitioner and it is



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pending. Therefore, the petitioner is not entitled for any subsistence allowance. Hence, the request made by the petitioner cannot be considered and the writ petition is devoid of merits and is liable to be dismissed.

6. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

26.03.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order

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G.K.ILANTHIRAIYAN. J.

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