



W.P.No.5977 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 29.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.5977 of 2014
and M.P.No.1 of 2014

K.544, Gobichettipalayam
Agricultural Co-operative Marketing
Society Limited by its Managing Director
Gobichettipalayam, Erode District.

...Petitioner

Vs.

1. P.Sellappan
2. The Authority under the payment of
Subsistence Act/Assistant Commissioner
of Labour, O/o.Deputy Commissioner of Labour
Salem.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent in its Order in P.S.A. No.02/2012 dated 10.5.2013 and quash the same.



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For Petitioner : Mr.L.P.Shanmugasundaram
For R1 : Mr.K.Megala
for Mr.N.Manokaran
For R2 : Mrs.E.Ranganayaki, AGP

ORDER

The writ petition is directed against the order in P.S.A.No.02/2012 dated 10.05.2013 directing payment of subsistence allowance of Rs.2,71,912/- to the 1st respondent herein.

2. The 1st respondent was placed under suspension with effect from 15.03.2006 in relation to an inquiry instituted against him under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. Pursuant to the inquiry, by order dated 28.11.2011, the 1st respondent was dismissed from service. An application was filed by the 1st respondent under Section 4 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 (the Tamil Nadu Payment of Subsistence Allowance Act), claiming subsistence allowance during the period of suspension, i.e. from 15.03.2006 to 30.10.2011. The application was allowed by the impugned order.



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3. Learned counsel for the petitioner assails the order on the ground that the third proviso to Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act provides that the subsistence allowance should be reduced to 50% of the wages for the period exceeding 90 days, if the inquiry was prolonged for reasons directly attributable to the employee. In the case at hand, he submits that the petitioner filed W.P.No.42404 of 2006 and obtained an interim stay on 06.11.2006. He further submits that the 1st respondent filed W.P.No.22979 of 2006 to restrain the petitioner society from proceeding with the surcharge, disciplinary and criminal proceedings. According to learned counsel, these actions on the part of the 1st respondent contributed to the extension of the suspension period beyond 90 days.

4. These contentions were refuted by learned counsel for the 1st respondent. She submits that there was no stay in respect of the continuation of the disciplinary proceedings after 19.07.2010. Hence, she submits that the third proviso to Section 3 is not attracted.

5. After extracting Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act, the Controlling Authority examined the



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evidence on record. After noticing that Ex.R2 discloses that an interim injunction was granted by the High Court in respect of proceeding further on the basis of the inquiry report, it was recorded that the respondent therein could not substantiate the reason for not paying subsistence allowance at the rate of 50% of the wages during the period of suspension. Therefore, the Controlling Authority directed payment of subsistence allowance at 50% of last drawn wages from 15.03.2006 to 19.07.2010 (i.e. until the stay was in force) and at 100% of the last drawn wages from 20.07.2010 to 30.10.2011 (i.e. period beyond 180 days). This is in conformity with the second proviso to Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act. In these circumstances, I find no infirmity in the impugned order and no reason to interfere therewith.

6. Therefore, W.P.No.5977 of 2014 is disposed of without any order as to costs. Consequently, connected miscellaneous petition is closed.

29.11.2024



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Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

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SENTHILKUMAR RAMAMOORTHY,J.

Kj

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