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Writ Petition No.17231 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

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THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Writ Petition No.17231 of 2018
and
WMP Nos.20506 to 20508 of 2018

A.Shanmugam

.....Petitioner

vs.

1.The Joint Registrar of Co-operative Societies,
Namakkal Region, Namakkal,
Namakkal District.

2.The Managing Director/Deputy Registrar,
Tiruchengode Cooperative
Urban Bank Ltd, No.8994,
Tiruchengode,
Namakkal District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the first respondent in his proceedings in Revision petition no.2575/2017/Sa.Pa, dated 12.06.2017 and quash the same and consequently directing the respondents to disburse the subsistence allowance together with arrears to the petitioner from the date of suspension order dated 10.12.2015 by taking note of the order passed by



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this Court in WP No.22957 of 2012, dated 17.07.2014.

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For Petitioners : Mr.C.Prakasam

For Respondents : Mr.P.Ganesan for R1

Mr.L.P.Shanmugasundaram, for

R2

ORDER

This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the first respondent in his proceedings in Revision petition no.2575/2017/Sa.Pa, dated 12.06.2017 and quash the same and consequently directing the respondents to disburse the subsistence allowance together with arrears to the petitioner from the date of suspension order dated 10.12.2015 by taking note of the order passed by this Court in WP No.22957 of 2012, dated 17.07.2014.

2.The brief facts which led to the filing of the present Writ Petition are as follows:

The petitioner was working as Manager in the second respondent. He was placed under suspension on account of the pendency of disciplinary proceedings with effect from 10.12.2015 and thereafter, the suspension



order has been extended periodically. Challenging the illegality of one of the extension order dated 22.08.2016 passed by the second respondent and also seeking for payment of subsistence allowance, the petitioner has filed a Revision Petition No.7075 of 2015 before the first respondent. The Revision Petition was returned on 11.11.2016 by the first respondent on the ground that the impugned order is not the final order. Challenging the same, the petitioner has filed WP No.3128 of 2017 before this Court seeking for a direction to the first respondent to entertain the Revision Petition and dispose of the same on merits. By order dated 18.02.2017, this Court disposed of the said Writ Petition, permitting the petitioner to file Revision Petition under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. Thereafter, the petitioner has filed a Revision Petition No.2575 of 2017 before the first respondent. The first respondent has dismissed the Revision Petition by order dated 16.06.2017. Aggrieved by the same, the present Writ Petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent and learned counsel appearing for the second respondent.



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4. Having heard the submissions of the learned counsel on either side and on careful perusal of the material available on record, it appears that though the first respondent has passed a detailed order while considering 28 objections raised by the petitioner, but it appears that he failed to consider the fact regarding pendency of WP No.14156 of 2016 before this Court, on the premise that it does not relevant to pass appropriate orders in accordance with law in Revision Petition no.2575 of 2017 filed by the petitioner. The petitioner sought payment of subsistence allowance in the revision petition, which was filed against the suspension order. The petitioner sought subsequent relief for payment of subsistence allowance, however, it appears the first respondent while dismissing the revision petition filed by the petitioner, by order dated 12.06.2017, wherein, it is held that the impugned order in the revision petition could not be set aside. While passing such order, the first respondent ought to have considered the consequential relief sought by the petitioner for grant of subsistence allowance in terms of the applicable Rules and Regulations for that purpose. But without considering the same, the first respondent stated that no order can be passed to draw the subsistence allowance to the petitioner, in view of pendency of



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WP.No.14151 of 2016 before this Court. In the considered opinion of this Court, the decision of the first respondent with respect to drawing the subsistence allowance to the petitioner is illegal and contrary to the settled law.

5. During the course of hearing, it is brought to the notice of this Court by the learned counsel appearing on either side that WP No.14156 of 2016 was dismissed by this Court vide order dated 11.09.2017. Against that, a Writ Appeal has also been filed in WA.No.659 of 2018 before this Court, which was disposed of by this Court, vide order dated 18.04.2018, confirming the order passed by the learned single Judge in W.P.No.14156 of 2016. Therefore, in view of the disposal of W.P No.14156 of 2016, the first respondent now can consider the request of the petitioner for payment of subsistence allowance, if he is legally entitled.

6. In view of the same, without expressing any opinion with regard to confirming the order of suspension in Revision Petition No.2575 of 2017 vide order dated 12.06.2017 passed by the first respondent, the decision of the first respondent in the said order as regards rejection of the payment of



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subsistence allowance to the petitioner, is hereby set aside.

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7. Accordingly, the Writ Petition is disposed and the first respondent is directed to consider the request of the petitioner for payment of subsistence allowance to the petitioner as per the applicable Rules and Regulations and pass appropriate orders after giving an opportunity of personal hearing to the petitioner, within a period of six weeks from today.

No costs.

Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Speaking order: Yes/No
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To

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2. The Managing Director/Deputy Registrar,
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Urban Bank Ltd, No.8994,
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BATTU DEVANAND, J



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