



W.P.No.26622 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.26622 of 2015

and

M.P.No.1 of 2015

Sathyamangalam Primary Agricultural Co-operative Credit Society Ltd.,
Rep. by its President,
Urumaen Street, Vadakupettai,
Sathy Post – 638 401,
Sathyamangalam Taluk,
Erode District.

... Petitioner

Vs.

1.The Assistant Commissioner of Labour,
Assistant Commissioner (incharge),
Salem.

2.M.Krishnaraj

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records pertaining to the order passed by the 1st respondent in P.S.I.A.No.1 of 2015 dated 20.05.2015 and quash the same as illegal, incompetent, ultra-vires.



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For Petitioner : Mr.Ma.P.Thangavel

For Respondents : Mr.K.Surendran
Additional Government Pleader [R1]
No appearance [R2]

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorari, to call for the entire records pertaining to the order passed by the 1st respondent in P.S.I.A.No.1 of 2015, dated 20.05.2015 and quash the same.

2. The case of the petitioner is that, the 2nd respondent/workman while working with the petitioner society indulged in various misconduct, falsification of accounts, due to which the society incurred loss, hence the order of temporary suspension dated 03.07.2006 was given to the 2nd respondent after giving him opportunity to explain. In the meanwhile, the 2nd respondent has filed a claim petition in Form-III dated 12.01.2015 before the 1st respondent for subsistence allowance along with condone delay petition in I.A.No.1 of 2015 for huge delay of 2752 days. The above petition was allowed against the principles of natural justice by the 1st respondent vide impugned order dated 20.05.2015.



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Challenging the same, the petitioner society has filed the present writ petition before this Court.

3. Learned counsel appearing for the petitioner society submitted that, the 1st respondent failed to consider the fact that any delay should be properly reasoned and that too in delay of such a huge magnitude, every day of delay may be properly reasoned and only after satisfying as to the genuineness of the reasons, the 1st respondent ought to have condoned the delay. Hence, the order passed by the 1st respondent is absolutely against the principles of law and the same is liable to be set aside. Accordingly, he prays for allowing the writ petition.

4. On the above contentions, heard the learned Additional Government Pleader appearing for the 1st respondent and also perused the materials available on record.

5. A perusal of the entire records, including the impugned order reveals that the 2nd respondent was placed under suspension on 03.07.2006 and he was reinstated into service on 03.07.2007 after a period of one year on the basis of the order passed by this Court.



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Thereafter, he filed an application before the 1st respondent seeking payment of subsistence allowance with delay of 2752 days and the 1st respondent by relying on the decision of the Hon'ble Apex Court in the case of ***Collector Land, Acquisition Anantnag and Anr. Vs. Mst.Katiji & Ors.*** held that if the sufficient cause is shown, the petition to condone the delay should be considered leniently, and accordingly, condoned the delay vide impugned order, which cannot be said to be perverse, illegal or arbitrary. Hence, this writ petition is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. However, the 1st respondent is directed to dispose of the application seeking subsistence allowance filed by the 2nd respondent, within a period of three (3) months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

04.03.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To
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The Assistant Commissioner of Labour,
Assistant Commissioner (incharge)
Salem.



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M.DHANDAPANI, J.

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