



Cont.P.No.1345 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

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Order reserved on : 01.08.2025

Order pronounced on : 22.08.2025

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THE HON'BLE MR. JUSTICE P.B.BALAJI

Cont.P.No.1345 of 2024

V.P.Rajendran

..Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Tiruvallur Region, Collectorate Campus,
Tiruvallur, Tiruvallur District.

2.The President,
V.K.N.Kandigai Primary Agricultural,
Co-operative Credit Society,
V.K.N.Kandigai Post, Tiruthani Taluk,
Tiruvallur District.

..Respondent

Prayer: Contempt Petition filed under Section 11 of the Contempt of Court Act, to punish the respondent herein for their wilful disobedience and non-compliance of the orders of this Court in W.P.No.5666 of 2016 dated 09.06.2023 under the provisions of Contempt of Courts Act.

For Petitioner : Mr.C.Prakasam

For Respondents : Mrs.Geetha Thamaraiselvan
Special Government Pleader



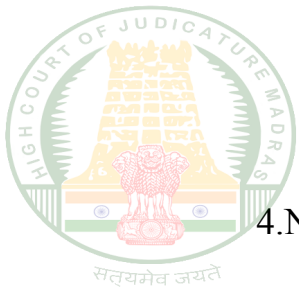
ORDER

This contempt petition has been filed to punish the respondents herein for their wilful disobedience and non-compliance of my order dated 09.06.2023 in W.P.No.5666 of 2016.

2.I have heard Mr.C.Prakasam, learned counsel for the petitioner and Mrs.Geetha Thamaraiselvan, learned Special Government Pleader for the respondents.

3.The petitioner in this contempt has filed W.P.No.5666 of 2016 for the relief of issuance of a Writ of Certiorarified Mandamus to quash the order passed by the 1st respondent herein, namely the Joint Registrar of Co-operative Societies, Tiruvallur Region, dated 12.10.2015 in Na.Ka.No.2829/2015/A3. After hearing the learned counsel for the parties, I reserved the writ petition on 05.06.2023 and allowed the writ petition on 09.06.2023. The operative portion of the order is as follows:

“9.In fine, the Writ Petition is allowed. The impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.2829/2015/A3, dated 12.10.2015 is quashed and consequently the respondents are directed to disburse 100% subsistence allowance together with arrears to the petitioner within a period of 12 weeks from the date of receipt of a copy of this order. No costs.”



4.Now it is alleged in this contempt petition that the said order dated 09.06.2023 has been wilfully disobeyed and no subsistence allowance was paid, much less arrears and on the contrary, the respondents were attempting to proceed with disciplinary proceedings.

5.Mr.C.Prakasam, learned counsel for the contempt petitioner would refer to the representation of the writ petitioner dated 01.08.2023 expressing personal financial constraints and requesting for the subsistence allowance to be released immediately. It was followed up with another representation dated 01.12.2023 as well. He would further state that even a detailed calculation sheet was enclosed along with the representations given by the contempt petitioner and despite acknowledging receipt of the same, the respondents have not come forward to obey the order of this Court.

6.Per contra, Mrs.Geetha Thamaraiselvan, learned Special Government Pleader would contend that the entire amount due and payable to the contempt petitioner has now been paid and there are no further amounts that are due and payable to the petitioner. She would further state that the petitioner had caused loss to the society to the tune of Rs.13 lakhs and above and recovery orders were also passed by the Deputy Registrar of Co-operative Societies which was



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followed up in C.C.No.1 of 2015. Insofar as departmental proceedings, it is contended by the learned Special Government Pleader that the respondents/Society has already taken action and charge memo was issued in Charge Memo No.5 of 2014/Tha dated 27.03.2014 for the act of misappropriation.

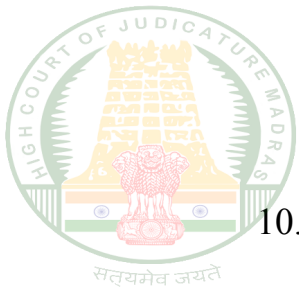
7.Inviting my attention to the letter sent by the respondents/Society on 09.02.2015, it is contended that since the petitioner was responsible for delay of more than 90 days in taking disciplinary action, the petitioner was eligible for only 50% subsistence allowance and the same was challenged by way of revision under Section 153 of Tamil Nadu Co-operative Societies Act, 1983, seeking subsistence allowance at 100% or at least 75%. The Joint Registrar of Co-operative Societies, Tiruvallur, by proceedings dated 12.10.2015, had rejected the said representation of the writ petitioner which came to be challenged in the writ petition filed in W.P.No.5666 of 2016.

8.The learned Special Government Pleader admits that in and by my order, I directed 100% subsistence allowance to be paid to the petitioner, within a period of 12 weeks. Further, though my order was challenged in writ appeal, the same was dismissed even at the condonation of delay stage on 14.08.2024.



It is the further contention of the learned Special Government Pleader that after dismissal of the writ appeal at the admission stage, the Society passed a Resolution on 25.09.2024 to pay 100% subsistence allowance from the date of suspension from 01.02.2014 to 21.05.2020 in installments, considering accumulated losses suffered by the Society.

9.The learned Special Government Pleader would also place reliance on the G.O.Ms.No.368, Personnel and Administrative Reforms Department dated 18.10.1993, where it is set out that when an employee is charged with criminal case and the criminal case is pending and he has been suspended for misconduct, then the period of suspension or the period of service preceding, the suspension shall be allowed to count towards the period necessity to earn an increment. It is also brought to my notice that the petitioner was dismissed from service on 29.10.2024 and the suspension period has been treated as punishment period. In other words, it would be non qualifying service period and therefore, taking into account all these, the petitioner was paid subsistence allowance at the rate of 50% which works out to Rs.7,59,990/- and it was also stated that the said amount of Rs.7,59,990/- has been paid and therefore, she prays for dismissal of the contempt petition.



10.I have carefully considered the submissions advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

11.It is an admitted fact that in terms of the order passed by me on 09.06.2023, the petitioner is entitled to 100% subsistence allowance. The order in the writ petition was also confirmed in writ appeal, which is also admitted. Therefore, it now boils down to whether the petitioner has been paid with entire subsistence allowance or not. According to the learned counsel for the petitioner, totally a sum of Rs.13,99,924/- has to be paid, out of which only Rs.7,59,990/- has been paid by the respondents, leaving a balance of Rs.6,39,934/-.

12.It is the contention of the learned Special Government Pleader for the respondents that the amount payable to the petitioner even towards 100% subsistence allowance is only Rs.7,59,990/- and the same having been admittedly paid, no further subsistence allowance is due and payable to the petitioner. A calculation that is relied on by the learned counsel for the petitioner to arrive at a sum of Rs.13,99,924/- is taking into consideration the increments that are payable to the petitioner. The learned counsel for the



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petitioner also relied on the general instructions for annual pay increment

General Rules. In (अ) (ஆ) of the said General Rules, it has been stated that even if there were charges against the employee, increment can be considered under Fundamental Rule 24(6) and G.O.Ms.No.41533/பணிN/87-9, பணியாளர் நாளி 19,11,1973.

13.If according to the respondents, the increment cannot be taken into account, then the payment due and payable to the petitioner has been settled in full. However, if the petitioner is entitled to get increments as well, then the respondents would be liable to be pay further amounts. Even in the General Rules regarding annual pay increment, the Rule does not make it mandatory for the employer to pay increment when criminal charges are pending against the employee. The interpretation of the Rule has to be read as only being discretionary and not mandatory. Therefore, the action of the respondents to not allow increments which is based on G.O.Ms.No.368 dated 18.10.1993 and consequent decision vide Resolution dated 25.09.2024 is based on the actual pay of the respondents. Considering the fact that the petitioner has been terminated from service also on 29.10.2024 and the charges against him have also been proved, I do not find the action of the respondents in not factoring increment, being contemptuous or in wilful disobedience of the order of this Court.



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14.As already discussed, the Rule also bestows discretion to pay increments to the employee when charges are pending and the respondents therefore cannot be compelled to factor increments as well while arriving at subsistence allowance due and payable. In any event, the fact remains that in terms of the actual salary of the petitioner, the subsistence allowance has been released in full. In the light of the above, I am unable to hold the respondents in contempt.

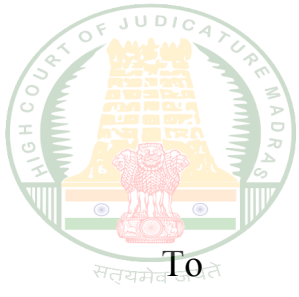
15.In view of the above, the Contempt Petition is dismissed.

22.08.2025

Speaking/Non-speaking order

Index : Yes/No

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To

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Tiruvallur, Tiruvallur District.

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P.B.BALAJI.J.

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Pre-delivery order made in
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