



WEB COPY

W.A.No. 282 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.No. 282 of 2025
and
C.M.P.No. 2172 of 2025

The President,
Kundukkal Primary Agricultural
Cooperative Credit Society,
Kundukkal, Konerddiyur,
Kadayampatti,
Salem District.

... Appellant

Vs.

1.R.Settu

2.The Joint Registrar of Cooperative Societies,
Salem Region, Salem,
Salem District.

3.The Authority,
Tamil Nadu Subsistence Allowance Act,
Salem, Salem District.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 31.10.2023 made in W.P.No.10999 of 2021.



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For Appellant : Mr.P.S.Sivashanmugasundaram

For Respondents : Mr.C.Prakasam for R1

Mr.P.Ananda Kumar

Government Advocate for R2 & R3

J U D G M E N T

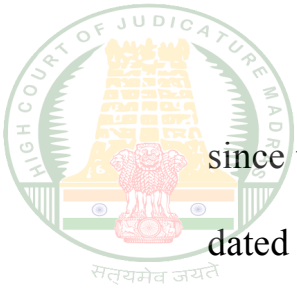
(Judgment of the Court was made by R.SUBRAMANIAN, J.)

Challenge is to the order of the learned single Judge, directing

payment of subsistence allowance as per the order of the Authority under the payment of subsistence allowance dated 01.10.2019.

2. The 1st respondent, who was working as a Clerk in the appellant Co-operative Society was suspended, saying enquiry into grave charges is contemplated and he was also removed from service on the basis that the charges have been proved. He however, moved the Authority under the Payment of Subsistence Allowance Act seeking payment of subsistence allowance from the date of his suspension till date of his dismissal from service i.e., from 26.09.2017 to 14.05.2019. The Authority found that non-payment of subsistence allowance is not justified and directed payment of subsistence allowance at the rates specified under the Act and quantified the said sum at Rs.4,66,875/-. This order was not challenged. Since the subsistence allowance was not paid, the respondent moved this Court seeking payment of the said sum. The Writ Court allowed the writ petition,

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since the order of the Authority directing payment of subsistence allowance dated 01.10.2019 had become final. Aggrieved, the Society is on appeal.

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3. We have heard Mr.P.S.Sivashanmugasundaram, learned counsel for the appellant, Mr.C.Prakasam, learned counsel for the 1st respondent and Mr.P.Ananda Kumar, learned Government Advocate for the 2nd and 3rd respondents.

4. Mr.P.S.Sivashanmugasundaram, learned counsel for the appellant would rely upon the judgment of a Division Bench of this Court in ***Registrar Co-operative Society Vs. M.Elango*** reported in **2021 (1) CTC 465** wherein, the Division Bench after considering the Tamil Nadu Payment of Subsistence Allowance Act, Tamil Nadu Co-operative Societies Act as well as the Tamil Nadu Primary Agricultural Co-operative Banks Common Cadre Service Regulations, 2000 held that in as much as the Secretary of a Primary Agricultural Co-operative Bank is not a cadre employee, since the Common Cadre was abolished in 2008, he is not entitled to subsistence allowance under Regulation, 29(d)(i).

5. While doing so, the Division Bench held that it will be open to the



Society / the employer to refuse payment of subsistence allowance, according to the by-laws and rules applicable. It was also held that the denial of benefit of subsistence allowance to the suspended employee will be violative of Article 21 unless it is shown as not warranted on the facts of a particular case. The judgment of the Division Bench, in our considered opinion, will not apply to the case on hand in as much as the respondent is a cadre employee and is not of a managerial or a secretarial level.

6. We are therefore, unable to fault the writ court for having directed payment of subsistence allowance. This Writ Appeal, fails and it is accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed. Eight weeks time is granted to the appellant / Society to pay the subsistence allowance as directed by the writ court.

(R.S.M., J.) (G.A.M., J.)
17.02.2025

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