



W.P.No.9277 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.9277 of 2014

and

M.P.No.2 of 2014

The Dharmapuri District Central Cooperative Bank Ltd.,
Rep. by Managing Director,
10/H, Nethaji Bye-pass Road,
Dharmapuri – 636 701.

... Petitioner

Vs.

K.Mani (Deceased)
rep by legal heirs

1.V.Suganthi
2.M.Anuradha
3.M.Ramesh Babu

4.The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Collectorate, Salem – 636 001.

5.The Deputy Commissioner of Labour,
Collectorate,
Salem – 636 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the fourth respondent's order in PSA.52/08 dated 14.12.2009,



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confirmed by the fifth respondent in his order APSA.2/2010 dated 30.10.2013 and quash the both orders and also consequently direct the fourth respondent to refund the amount of Rs.1,70,298/- with accumulated interest.

For Petitioner : Mr.P.Anbarasan

For Respondents : No appearance [R1 & R3]

Not Ready in Notice [R5]

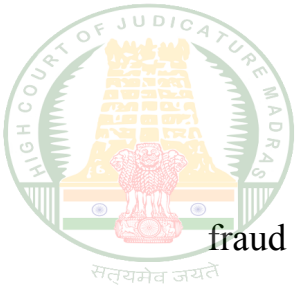
Mr.K.Surendran

Additional Government Pleader [R4 & R5]

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorarified Mandamus, to call for the records relating to the fourth respondent's order in PSA.52/08 dated 14.12.2009, confirmed by the fifth respondent in his order APSA.2/2010 dated 30.10.2013 and quash the both orders and also consequently direct the fourth respondent to refund the amount of Rs.1,70,298/- with accumulated interest.

2. The case of the petitioner is that, one K.Mani (deceased), who is the husband of the 1st respondent and father of the respondents 2 and 3, was working as Field Manager in the Uthangarai branch of the petitioner bank from 31.05.2001 to 30.09.2003. During this period, he committed

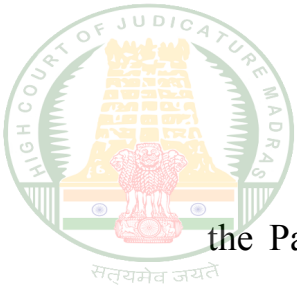


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fraud and misappropriated heavy amount to the tune of Rs.17,04,225/-,

therefore, he was suspended from 30.09.2005. Thereafter, claiming subsistence allowance, he filed an application before the 4th respondent in PSA.No.52 of 2008 and the 4th respondent vide order dated 14.12.2009 sanctioned subsistence allowance of a sum of Rs.1,70,298/- in favour of the deceased workman. Aggrieved by the same, the petitioner bank preferred an appeal before the 5th respondent in APSA.No.2 of 2010 and the 5th respondent passed an order dated 30.09.2013 dismissing the appeal. Challenging the same, the petitioner has filed the present writ petition.

3. Learned counsel for the petitioner submitted that, the present writ petition is filed solely on the ground that the deceased employee employed as Field Manager and he is not coming under the purview of employee in terms of Section 2(a) of the Tamil Nadu Payment of Subsistence Allowance Act (in short 'the Act') and he was employed in managerial capacity. He further submitted that, when the deceased employee was employed in managerial capacity, he is not entitled to subsistence allowance. However, without considering the nature of the employment employed by the deceased employee, the authorities under



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the Payment of Subsistence Allowance Act, have concurrently held as against the petitioner bank, which is not sustainable. Accordingly, he prays for allowing the writ petition.

4. On the above contention, heard the learned Additional Government Pleader appearing for the respondents 4 and 5 and perused the materials available on record.

5. Admittedly, the deceased employee was employed as Field Manager in the petitioner bank and he was placed under suspension on 30.09.2005 and thereafter, he was reinstated into service on 29.08.2006. During the above said period, he was not paid with subsistence allowance, thereby, he filed an application before the 4th respondent claiming the subsistence allowance and the 4th respondent arrived at a conclusion that he employed as Supervisory capacity and not in managerial capacity, thereby, ordered for subsistence allowance to the tune of Rs.1,70,298/- in favour of the deceased employee, which was confirmed by the 5th respondent. It is seen from the records that the petitioner bank failed to establish before the respondents 4 and 5 that the deceased employee was employed in managerial capacity. Section 2(a) of



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the Act makes it clear that, when a person is employed in a supervisory capacity, he is an employee, in which, he is entitled to claim subsistence allowance. By considering the above, the respondents 4 and 5 have concurrently rendered findings in favour of the deceased employee, which cannot be said to be perverse, illegal or arbitrary. Hence, this Court is not inclined to interfere with the same and this Writ Petition is liable to be dismissed.

6. Accordingly, this Writ Petition is dismissed. No costs.

Consequently, the connected miscellaneous petition is closed.

26.02.2025

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

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To

1. The Assistant Commissioner of Labour,
Office of the Deputy Commissioner of Labour,
Collectorate, Salem – 636 001.

2. The Deputy Commissioner of Labour,
Collectorate,
Salem – 636 001.



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M.DHANDAPANI, J.

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