



**W.P.(MD) Nos. 19460 of 2016
and 18183 of 2018**

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)Nos.19460 of 2016 and 18183 of 2018

and

W.M.P(MD) No.14021 of 2016

W.P.(MD) No.19460 of 2016:

The Management/President,
T.1326, Thiruvaiyaru Primary Agricultural
Cooperative Credit Society Limited,
Thiruvaiyaru Taluk,
Thanjavur District.

... Petitioner

Vs.

1. The Assistant Commissioner of Labour,
(Under the Payment of Subsistence Allowance Act, 1981)
Tiruchirapalli – 20.

2. A.V.Ramachandran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for records relating to impugned order in P.U.No.08/16, dated 19.08.16 (Revised order) on the file of Assistant Commissioner Labour, Thiruchirapalli, under the payment of Subsistence Allowance Act, 1981 and quash the same.



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For Petitioner : Mr.H.Arumugam
For R1 : Mrs.D.Farjana Ghoushia
Special Government Pleader
For R2 : Mr.G.M.Xavier

W.P.(MD) No.18183 of 2018:

A.V.Ramachandran

... Petitioner

Vs.

1. The Registrar of Cooperative Societies,
Kilpauk,
Chennai.
2. The Joint Registrar of Cooperative Societies,
Thanjavur.
3. The Deputy Registrar of Cooperative Societies,
Thanjavur.
4. The President,
T.1362 Thiruvaiyaru Primary Agricultural
Cooperative Credit Society,
Thiruvaiyaru Taluk,
Thanjavur District.
5. The District Collector,
Thanjavur.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying this Court to issue a Writ of Mandamus, directing the respondents to



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settle the petitioner's Subsistence Allowance of Rs.15,84,884/- payable to him with reasonable rate of interest within the time that may be stipulated by this Court.

For Petitioner : Mr.G.M.Xavier

For R1 to R4 : Mrs.D.Farjana Ghoushia
Special Government Pleader

COMMON ORDER

W.P(MD) No.19460 of 2016 has been filed by the Management of a Co-operative Credit Society, challenging the order passed by the first respondent herein under the Tamil Nadu Payment of Subsistence Allowance Act, 1981, directing the Management to pay the subsistence allowance from 01.05.2004 to 12.12.2013.

2. The second respondent herein, who was working as a Secretary in the petitioner's Co-operative Society was placed under suspension on 31.03.2004 with effect from 01.04.2004. He has attained superannuation on 30.04.2004. Admittedly, he was paid subsistence allowance from 01.04.2004 to 30.04.2004. However, he was not permitted to retire and he was not disbursed with any terminal benefits.



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3. The petitioner/Management had permitted the second respondent/workman to attain superannuation only on 12.12.2013. Hence, the second respondent has approached the first respondent herein seeking payment of subsistence allowance from 01.05.2004 till 12.12.2013. The first respondent has proceeded to pass an order directing the petitioner/Management to pay subsistence allowance to a tune of Rs.15,84,884/-. Challenging the same, the present Writ Petition has been filed by the Management.

4. According to the learned counsel appearing for the petitioner, the second respondent was not holding pensionable service. Therefore, the second respondent/workman would not be entitled to any subsistence allowance beyond the date of superannuation. Though the second respondent/workman was permitted to attain superannuation on a later date, unless he was entitled to receive wages during his suspension period, he would not be entitled to any subsistence allowance.

5. The learned counsel appearing for the petitioner also relied upon Section 3 (4) of the Tamil Nadu Payment of Subsistence Allowance Act 1981



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(Act 43 of 1981) contending that the Subsistence Allowance is payable only if the wages are payable to the concerned workman.

6. Per contra, the learned counsel appearing for the second respondent herein submitted that, though the second respondent had attained superannuation on 30.04.2004, he was not permitted to retire and in fact an order permitting him to retire was passed only on 12.12.2013. Therefore, it should be deemed that he was in service during the period between 01.05.2004 and 12.12.2013. In such circumstances, when salary was not paid, he is entitled to seek subsistence allowance for that period also. He was paid terminal benefits much belatedly, 9 years after his superannuation.

7. Heard the learned counsel appearing on either side and perused the materials available on record.

8. The second respondent was a Secretary of the petitioner Co-operative Society. Admittedly, it is not a pensionable post. He was suspended on 01.04.2004 and he attained superannuation on 30.04.2004. Subsistence



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allowance for the month of April 2004 has already been paid. In such circumstances, the question of payment of subsistence allowance beyond the date of superannuation does not arise, in the light of Section 3 (4) of Tamil Nadu Payment of Subsistence Allowance Act, 1981 (Act 43 of 1981). Therefore, the authority was not right in passing an order directing the Management to pay subsistence allowance from the date of retirement till the date on which he was permitted to retire. In fact, only if the workman is entitled to receive wages, subsistence allowance has to be paid during the period of suspension. When the workman is not entitled to receive pension on attaining superannuation, the payment of subsistence allowance beyond the date of superannuation does not arise. Therefore, the order impugned in the writ petition is set aside and the Writ Petition in W.P(MD) No.19460 of 2016 stands allowed.

9. W.P(MD) No.18183 of 2018 has been filed by the workman to implement the order of the Joint Commissioner of Labour, passed under the Tamil Nadu Payment of Subsistence Allowance Act 1981. Since this Court has already arrived at a conclusion that the finding of the authority under the Payment of Subsistence Allowance Act is not in consonance with the Act,



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W.P(MD) No.18183 of 2018 stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

16.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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