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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 20.11.2025

PRONOUNCED ON: 15.12.2025

CORAM:

THE HONOURABLE **Dr.JUSTICE ANITA SUMANTH**

AND

THE HONOURABLE **Mr.JUSTICE C.KUMARAPPAN**

W.A.(MD)No.1428 of 2022

A.Sivakumar

...Appellant

Vs.

1. The Management,
M/s.D.D.115, Palani Co-operative Primary
Agricultural and Rural Development Bank Limited,
Palani,
Dindigul District-624 601.

2. The Deputy Commissioner of Labour
Authority under the Tamil Nadu
Payment of Subsistence Allowance Act,
(Deputy Commissioner of Labour)
Collectorate Complex, Dindigul-624 004.

...Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed in W.P.(MD) No.13360 of 2022 dated 16.09.2022 allow the Writ Appeal.



For Appellant : Mr.R.Saravanan

For Respondents : Mr.S.Seenivasagam for R1
Mr.M.Sarangan,
Additional Government Pleader for R2

JUDGMENT

(Judgment of the Court was made by ***C.KUMARAPPAN, J.***)

The present Writ Appeal is arising against the order passed by the learned Single Judge in WP(MD).No.13360 of 2022 by and in which the order passed by the Authority under the “Tamil Nadu Payment of Subsistence Allowance Act, 1981” [hereinafter referred to as “the said Act”] to pay the subsistence allowance, was set aside.

2. The brief facts which are necessary for the disposal of the present Writ Appeal is that, the appellant was an employee in the first respondent Society. In pursuance of the Section 81 enquiry under the Tamil Nadu Co-operative Societies Act, 1983, the appellant was suspended on 16.04.2019. However, against the Section 81 enquiry report, the petitioner preferred a writ petition in WP(MD).No.10908 of 2019, wherein the learned Single Judge has granted stay on 29.04.2019. Since there was a stay, the first respondent did not pay



subistence allowance from the date of stay order viz., 29.04.2019 and ultimate dismissal of the writ petition on 12.08.2020. When the appellant preferred a petition before the competent authority/ 2nd respondent, the competent authority ordered to pay the subsistence allowance from 29.04.2019 to 12.08.2020. Aggrieved with the same, the Management/ first respondent preferred the writ petition and the Writ Court was of the view that the order of stay obtained by the appellant against the Section 81 enquiry would disentitle the appellant to get subsistence allowance, thereby, the learned Single Judge set aside the order of the competent authority. Aggrieved with the same, the present Writ Appeal has been filed.

3. Heard Mr.R.Saravanan, learned counsel for the appellant, Mr.S.Seenivasagam, learned counsel appearing for the first respondent and Mr.M.Sarangan, learned Additional Government Pleader appearing for the 2nd respondent.

4. The learned counsel for the appellant would vehemently contend that the order of stay against Section 81 enquiry will have no implication in the continuance of payment of subsistence allowance. He would further submit that, even for argument sake, the stay has got some implications in proceeding of the domestic enquiry, the first respondent could have very well revoked the



suspension and reinstated the appellant. The learned counsel would further submit that, without there being any legal basis, the learned Single Judge has denied the subsistence allowance for the stay period, which is contrary to law. Hence, prayed to interfere with the order of the learned Single Judge.

5. *Per contra*, the said contention was stoutly objected by the learned counsel for the first respondent, and would contend that in view of the order of the stay, they were not able to proceed with the enquiry. He would further submit that, having stalled the domestic enquiry, the appellant has no legal right to have subsistence allowance. It is the further submission of the learned counsel that having obtained the order of stay the appellant cannot unlawfully enrich himself in receiving the subsistence allowance without there being any justifiable reason and would contend that there were no fault on the part of the first respondent in not proceeding with the enquiry. Hence, would submit that the order of the learned Single Judge is perfectly in order and does not deserve any interference. Hence, prayed to dismiss the present Writ Appeal.

6. We have given our anxious consideration to either side submissions.



7. The short point to be considered is, whether the order of stay granted by this Court in WP(MD).No.10908 of 2019 dated 29.04.2019 has got any implication in continuance of payment of subsistence allowance.

8. The following facts are not in dispute:-

(i) The appellant preferred a writ petition in WP(MD).No. 10908 of 2019 against the Section 81 enquiry conducted under the Tamil Nadu Co-Operative Societies Act, 1983.

(ii) He obtained stay on 29.04.2019 and ultimately, the writ petition was dismissed on 12.08.2020.

(iii) After the dismissal of the writ petition, the first respondent conducted domestic enquiry and ultimately terminated the petitioner from service on 04.05.2021.

(iv) The first respondent has no grievance to pay the subsistence allowance until the stay order granted by the learned Single Judge, and after the dismissal of the writ petition till his termination from service.

(v) The only grievance of the first respondent is that, since there was a stay on 29.04.2019 and the writ petition subsequently dismissed on 12.08.2020, between the above period, they were not able to proceed with the enquiry, hence, they are not liable to pay any subsistence allowance.

9. Now the issue become narrow down, whether the petitioner is eligible to have a subsistence allowance between 29.04.2019 and 12.08.2020. The only objection to deny the subsistence allowance is the order of stay granted by the learned Single Judge.



10. It is pertinent to mention here that the order of suspension will not sever the relationship between the employer and employee. As long as the employee is in the role, though he was suspended, is eligible to have a full salary unless there is a rule for reduced salary. In the case in hand, the said Act is applicable and according to Section 3 of the said Act, a suspended employee, during the period of suspension, is entitled to receive the subsistence allowance equal to 50% of wages, and this amount will be increased to 75% if the suspension period exceeds 90 days, and become eligible for full pay if the suspension period exceeds 180 days.

11. However, the employee will not be eligible for enhanced subsistence allowance qua 75% or full pay 100%, after a period of 90 days or 180 days respectively, when the employee become responsible for the delay in proceeding with the enquiry or criminal proceedings. For ready reference, this Court deems it appropriate to extract Section 3 of the said Act:-

“3. Payment of subsistence allowance- (1) An employee who is placed under suspension shall, during the period of such suspension, be entitled to receive payment from the employer as subsistence allowance, an amount equal to fifty per centum of the wages which the employee was drawing immediately before suspension, for the first ninety days reckoned from the date of such suspension:

Provided that where the period of suspension exceeds ninety days but does not exceed one-hundred and eighty days, the employee shall be entitled to receive, after the said period of ninety days, a subsistence allowance equal to seventy-five per centum of the wages which the employee was drawing immediately before his suspension:



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Provided further that where the period of suspension exceeds one hundred and eighty days, the employee shall be entitled to receive wages in full which the employee was drawing immediately before his suspension:

Provided also that where the enquiry or criminal proceeding is prolonged beyond the period of ninety days for reasons directly attributable to the employee, the subsistence allowance shall, for the period exceeding ninety days, be reduced to fifty per centum of the wages, which the employee was drawing

immediately before his suspension:

(2) An employee shall not be entitled to receive any subsistence allowance if he accepts any other employment during the period of his suspension in any establishment other than the establishment where he had been working immediately before his suspension.

(3) An employee shall not, in any event, be liable to refund or forfeit any part of the subsistence allowance admissible to him under sub-section (1) :

Provided that where the employee is exonerated of the charge based on which his suspension was ordered, the subsistence allowance paid to him for any period shall be adjusted against the full wages admissible to him for the period of suspension.

(4) The subsistence allowance under sub-section (1) shall be paid by the employer to the employee on the date or dates on which the wages due to the employee, but for his suspension, would have become payable.”

12. On harmonious reading of the above provision, it is mandatory that the minimum subsistence allowance equal to the pay of 50% wages is to be paid to the employee until revocation of suspension. In the well celebrated judgment of the Hon'ble Supreme Court in ***M.Paul Anthony Vs. Bharat Gold***



Mines Ltd., and another reported in ***(1999) 3 SCC 679***, the Hon'ble Supreme Court has dealt as to how the denial of subsistence allowance affects the right to life of an employee, which is protected under Article 21 of the Constitution of India. The Hon'ble Supreme Court has held that the non payment of subsistence allowance is an inhuman act, which has an unfavourable effect on the life of the employee. The Hon'ble Supreme Court has gone to an extent that proceeding with the disciplinary proceedings without paying the subsistence allowance is nothing but outright denial of natural justice. In yet another judgment of the Hon'ble Supreme Court in ***Jagdamba Prasad Shukla Vs. State of U.P and others*** reported in ***(2000) 7 SCC 90***, the Honble Supreme Court has held that the subsistence allowance cannot be denied on the ground of non submission of requisite certificate, when the certificate was not specifically sought by the authorities.

13. Therefore, it is amply clear that the subsistence allowance has got a greater significance in protecting the right to life of an employee, and any denial of subsistence allowance is contrary to the constitutional principle and is illegal. Section 3 of the said Act has not stipulated any denial of subsistence allowance at the minimum rate equal to the 50% of wages, and the employee is entitled to draw the same until there is severance of relationship or revocation of suspension. But, it has only stipulated certain conditions for payment of



enhanced subsistence allowance. Here, what the petitioner wants is only the minimum subsistence allowance at the rate of 50% of wage.

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14. The learned Single Judge has simply rejected such benefit on the basis of the stay granted by this Court against proceedings initiated under Section 81 of the Tamil Nadu Co-Operatives Act. This Court is of the firm view that the stay granted in WP(MD).No.10908 of 2019 to Section 81 enquiry will have no iota of impact in the domestic enquiry conducted by the respondent.

15. Even for argument sake, if we construe that such stay has affected the continuance of proceeding, still according to Section 3(1) of the Act, the petitioner is eligible to have a minimum subsistence allowance at the rate equal to 50% of wage. Therefore, this Court is of the firm view that the findings rendered by the Original Authority granting subsistence allowance is in accordance with the said Act. However, the learned Single Judge, without appreciating the facts in its right perspective, has rejected the claim of the petitioner, which according to us is not proper. Therefore, we are of the firm view that the order of the learned Single Judge is liable to be set aside.



16. In the result, this Writ Appeal is allowed and the order passed by the learned Single Judge in W.P.(MD) No.13360 of 2022 dated 16.09.2022 is hereby set aside. As a sequittur, the first respondent is directed to settle the subsistence allowance as ordered by the 2nd respondent, within a period of eight(8) weeks from the date of receipt of a copy of this judgment. No costs.

[A.S.M.J.,] & [C.K.J.,]

15.12.2025

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NCC :Yes/No

Index :Yes/No

Speaking Order/Non-speaking order

Internet :Yes

To

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Agricultural and Rural Development Bank Limited,
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DR.ANITA SUMANTH, J.
AND
C.KUMARAPPAN, J.

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Pre-Delivery Judgment made in
W.A.(MD)No.1428 of 2022

15.12.2025