

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP (C) No. 121 of 2024

Md. Abdul Matalip Shah

Petitioner

Vs.

State of Manipur; & 3 Ors.

Respondents

BEFORE
HON'BLE MR. JUSTICE AHANTHEM BIMOL SINGH

21.04.2025

[1] Heard Mr. Kh. Tarunkumar, learned senior counsel assisted by Ms. Julekha Khan, learned counsel appearing for the petitioner, Mr. Shyam Sharma, learned GA appearing for the respondents No. 1, 2 & 3 and Mr. S. Jasobanta, learned counsel appearing for the respondent No. 4.

[2] The present writ petition has been filed with a prayer for directing the respondents to release the monthly salaries of the petitioner for the period he was placed under suspension within a stipulated period.

[3] At the outset, the learned senior counsel appearing for the petitioner submitted that as a criminal case as well as departmental proceeding are pending against the present petitioner, the petitioner is not entitled to claim the full salaries for the period while he was placed under suspension. The learned

senior counsel accordingly prays for issuing a direction to the respondents to release the subsistence allowance due payable to the petitioner for the period while he was placed under suspension as provided under F.R 53 of the FR & SR.

[4] In the present case, the petitioner was placed under suspension by an order dated 04.10.2012 issued by the Chief Engineer, PWD, Manipur, in connection with the criminal case pending against the petitioner. While the petitioner was placed under suspension he filed a writ petition challenging the said suspension order and during the pendency of this said writ petition, this Court passed an order dated 05.12.2016 in MC (WP (C)) No. 306 of 2016 (Ref: WP (C) No. 221 of 2016), thereby directing the respondents to do the needful for payment of subsistence allowance to the petitioner at the earliest and the petitioner was also directed to furnish all the relevant documents to the authorities for processing payment of his subsistence allowance.

[5] Subsequently, by an order dated 08.02.2017 passed by this Court in WP (C) No. 221 of 2016, the suspension order of the petitioner was set aside. Later on, in compliance with the order passed by this Court, the Chief Engineer, PWD, Manipur, issued an order dated 29.08.2018, thereby revoking the suspension order dated 04.10.2012. The Chief Engineer, PWD, Manipur also passed

another order dated 26.10.2018, wherein, it has been stated, inter-alia, that the subsistence allowance of the petitioner during the period of his suspension is granted subject to the outcome of the criminal case pending against the petitioner.

It is the case of the petitioner that the petitioner was placed under suspension w.e.f. 14.10.2012 till he retired from service on attaining the age of superannuation w.e.f. 28.02.2017 and that despite the order dated 26.10.2018 issued by the Chief Engineer, PWD, Manipur, granting subsistence allowance to the petitioner for the period while he was placed under suspension, no subsistence allowance was paid to the petitioner till today. Having been aggrieved, the petitioner approached this Court again by filing the present writ petition for redressing his grievances.

[6] In the affidavit-in-opposition filed by the respondents No. 1 & 2, it has been stated, inter-alia, at paragraph No. 4 of the said affidavit-in-opposition that as the Department did not receive the relevant documents of the petitioner for payment of his subsistence allowance, the authorities could not release the subsistence allowance due payable to the petitioner.

[7] During the course of the hearing, it has been submitted by the learned GA appearing for the respondents No. 1, 2 & 3 that the authorities had already received all the necessary documents

in respect of the petitioner for payment of his subsistence allowance for the period while he was placed under suspension. According to the learned GA, the subsistence allowance of the petitioner will be released to the petitioner only in case he is exonerated of all charges after completion of the criminal case as well as the departmental proceeding initiated against him and that such payment of subsistence allowance will be subject to the outcome of the pending criminal case and the departmental proceeding initiated against the petitioner.

[8] I have heard at length the submission advanced by the learned counsel appearing for the parties and also perused the material available on record. With regard to the factual position, there is no disputes among the parties in the present case. The only issue to be decided is whether the petitioner is entitled to get his subsistence allowance during the period while he was placed under suspension on account of a criminal case pending against him or not. Under FR 53 (1) of the FR and SR it is, inter-alia, provided that a Government servant under suspension or deem to have been placed under suspension by an order of the appointing authority shall be entitled to receive subsistence allowance as provided therein. It is an undisputed fact that the petitioner was placed under suspension w.e.f. 04.10.2012 till 28.02.2017 when he

retired from service on attaining the age of superannuation. During the said period of suspension, the authorities did not release any subsistence allowance to the petitioner due payable to him in terms of FR 53 (1) of the FR and SR. Since under the relevant provision of law, the petitioner is entitled to receive subsistence allowance during the period of his suspension, this Court is of the considered view that the submission advanced on behalf of the respondents that the petitioner will get his subsistence allowance only when he is exonerated from all the charges in connection with the criminal case or departmental enquiry is devoid of merit and such submission is not sustainable in the eyes of law. In my considered view, the authorities are duty bound to implement the direction given earlier by this court for payment of his subsistence allowance during the period of his suspension and in terms of the relevant provisions of law. Accordingly, the present writ petition is disposed of with the following directions:-

- (1) The respondents No. 1, 2 & 3 are hereby directed to release the subsistence allowance due payable to the petitioner for the period while he was placed under suspension w.e.f. 04.10.2012 till 28.02.2017 on which date he retired from service on attaining the age of

superannuation, as provided under FR 53 of the FR and SR.

- (2) The whole process should be completed within a period of 2 months from today.
- (3) It is made clear that in the event, the authorities fail to release the subsistence allowance due payable to the petitioner within the stipulated period, it is hereby directed that the total amount due payable to the petitioner will carry an interest of 9 % per annum from the date the said subsistence allowance is due payable to the petitioner till the actual payment of such amount to the petitioner.

[9] With the aforesaid direction, the present writ petition is disposed of.

Sapana

JUDGE