

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2015

CORAM:

THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN

W.P.NO.10580 OF 2015

AND M.P.NO.1 OF 2015

D.Ragunathan

... Petitioner

Versus

The Tamil Nadu Civil Supplies Corporation
Rep. by its Managing Director
Chennai - 600 010.

... Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the proceedings No.AE/14/36788/2013 dated 28.05.2014 of the respondent, quash the same and consequently directing the respondent to pay the subsistence allowance from 01.06.2014 and to continue to pay the same till disposal of the disciplinary proceedings into the charge memo Na.Ka.No.AD5/81313/2013 dated 03.02.2014.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.C.Munusamy

O R D E R

Heard both sides. By consent, the writ petition is taken up for final disposal at the admission stage itself.

2.The petitioner was an employee in the respondent Corporation. He reached the age of superannuation on 30.11.2013. However, he was placed under suspension for a period of six months contemplating enquiry and he was retained in service by an order dated 29.11.2013 and he was paid subsistence allowance for the said six months period. Subsequently, the petitioner was issued with a

charge memo dated 03.02.2014. The suspension period of six months came to an end on 30.06.2014. However, by an order dated 28.05.2014, the suspension period was extended for another six months and the petitioner was not paid subsistence allowance for the extended period of suspension.

3. In these circumstances, the petitioner has filed this writ petition seeking to quash the aforesaid order dated 28.05.2014 seeking to extend the period of suspension for another six months and for a consequential direction to pay subsistence allowance from 01.06.2014 and to continue to pay the same till the disposal of the disciplinary proceedings.

4. At the time of hearing, the learned counsel for the petitioner has submitted that though the petitioner sought to quash the order extending his suspension period, the petitioner will be satisfied if the subsistence allowance is paid for the extended period of suspension. It is stated that till date, no final order is passed and the departmental proceedings is still pending. It is further stated that the six months period after 30.06.2014 has also expired and the period of suspension is also extended by the proceedings dated 28.11.2014 for another six months. But no subsistence allowance is paid from 01.06.2014.

5. The learned counsel for the respondent Corporation has submitted that the petitioner could not claim subsistence allowance for the extended period of suspension.

6. I have considered the submissions made on either side and perused the materials available on record.

7. Admittedly, the petitioner was paid subsistence allowance for the first six months period of suspension and thereafter, he was not paid subsistence allowance from 01.06.2014, though he is placed under suspension. In view of the disciplinary proceedings, none of the terminal benefits are settled to the petitioner. When the Department has sought to continue the disciplinary proceedings, the petitioner shall be paid subsistence allowance, otherwise, he could not survive to participate even in the disciplinary proceedings. In my view, deprivation of subsistence allowance amounts to deprivation of livelihood and the same is violative of Article 21 of the Constitution of India. So long as the petitioner is placed under suspension, he shall be paid subsistence allowance. Therefore, I am of the view that the petitioner is entitled to subsistence allowance for the extended period of suspension also and the respondent is not correct in restricting the subsistence allowance only for the first six months and refusing to pay the same for the further extended period.

8.Hence, a direction is issued to the respondent to pay subsistence allowance to the petitioner from 01.06.2014 till final order is passed in the disciplinary proceedings, if the same is not paid to the petitioner so far and arrears shall be paid within a period of four weeks from the date of receipt of a copy of this order and thereafter, the subsistence allowance shall be paid on or before 10th of every succeeding month, till final order is passed in the disciplinary proceedings.

9.With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

TK

To

The Managing Director
Tamil Nadu Civil Supplies Corporation
Chennai - 600 010.

1 cc to Mr.S. Venkataraman, Advocate, Sr. 22818

1 cc to Mr.C. Munusamy, Advocate, Sr. 22730

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