

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.22572 of 2015

D.Manicka Sundari

...Petitioner

vs.

1.The Director of Medical Education,
Kilpauk, Chennai -10.

2.The Superintendent,
Government R.S.R.M.Hospital,
Rayapuram, Chennai -13.

...Respondent

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, directing the second respondent to pay the subsistence allowance to the petitioner from the date of Removal order passed by the 2nd respondent in Se.Mu.Na.No.7574/Ni3/2009, dated 17.06.2009 to till 12.05.2011 as per Rule 17(e) (4) of the Tamilnadu Civil Services (D & A) Rules.

For Petitioner : Mr.K.Sannjay

For Respondents : Ms.M.E.Raniselvam
Addl.Govt.Pleader

O R D E R

In view of the narrow prayer made, the writ petition is taken up for final disposal at the admission stage itself.

2. The petitioner was initially appointed as Hospital Worker in Raja Sir Ramasamy Mudaliyar Government Hospital, Chennai-13 on 29.05.1987. Thereafter, she was given promotion as Female Nursing Assistant vide order dated 17.11.1992. While so, according to the petitioner, without following the procedure, she was removed from service on 31.01.2001 for certain allegations.

3. Challenging the said order, the petitioner filed Original Application before the Tamil Nadu Administrative Tribunal, but the same was dismissed. Thereafter, the petitioner approached this Court by filing W.P.No.5417 of 2001. This Court allowed the said writ petition vide order dated 16.09.2002 and a direction was issued to reinstate the petitioner with backwages. This Court observed that it was open to the first respondent to proceed against the petitioner by giving her reasonable opportunity. Thereafter, the petitioner was reinstated in service on 22.03.2003

and she joined duty on 26.03.2003. That being so, the petitioner was placed under suspension by the second respondent on 08.08.2003 and the same was revoked on 11.05.2004.

4. The second respondent issued a revised charge memo on 14.08.2007. The petitioner gave her explanation denying the charges. According to the petitioner, enquiry was conducted behind her back and the report of the Enquiry Officer was not communicated to her. Again the petitioner was removed from service on 17.06.2009, against which, she preferred appeal before the first respondent. The first respondent passed an order dated 24.11.2010 setting aside the punishment order. However, she was reinstated in service only on 31.05.2011.

5. While so, the second respondent, issued a memo along with enquiry report on 31.05.2011 and after getting further explanation from the petitioner, removed her from service on 13.02.2012. The petitioner filed appeal against the aforesaid order before the first respondent and the same was rejected on 04.05.2012.

6. The grievance of the petitioner is that in the facts of the above case, she is entitled to subsistence allowance from 17.06.2009 to 12.05.2011 since the removal from service was set aside by the first respondent on appeal on 24.11.2010. Hence, she made a representation, dated 13.06.2011 in this regard. Since no order is passed the petitioner is before this Court.

7. In the facts and circumstances of the case, I am of the view that the petitioner is entitled to subsistence allowance for the said period.

8. Accordingly, the writ petition is disposed of by directing the second respondent to pay subsistence allowance from 17.06.2009 to 12.05.2011, if not already paid, within a period of six weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Asst.Registrar (CS II)

/true copy/

WEB COPY
Sub Asst. Registrar

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To

1.The Director of Medical Education,
Kilpauk, Chennai -10.

2.The Superintendent,
Government R.S.R.M.Hospital,
Rayapuram, Chennai -13.

+1 cc to Govt.Pleader, sr.38396

+1 cc to Mr.Elamchezhian, Advocate, sr.38348.

lrs(co), kra, 14/08

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W.P.No.22572 of 2015