

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.V.MURALIDARAN

W.P.No.18541 of 2016

and

WMP.No.16237 of 2016

R.Sakthivel
S/o.Rangasamy

.. Petitioner

Vs

1.The Managing Director,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
CMDA Tower II, IV Floor,
Gandhi Irwin Road, Egmore,
Chennai - 600 008.

2.The District Manager/Deputy Collector,
Tamil Nadu State Marketing Corporation Ltd., (TASMAC),
Krishnapuram Road,
Thummarkuchi & Post,
Namakkal District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to pay the Subsistence Allowance to the petitioner and to pass final order in departmental enquiry based on the petitioner's representation dated 30.06.2014, at the earliest.

For Petitioner : Mr.S.Kumaresan

For Respondents : Mr.S.Kasirajan

ORDER

Heard Mr.S.Kumaresan, learned counsel appearing for the petitioner and Mr.S.Kasirajan, learned counsel appearing for the respondents and with their consent this Writ Petition is taken up for final disposal.

2. The petitioner was appointed as a salesman in a TASMAC Shop No.5927 at Namakkal District on temporary/contract basis on 25.12.2003, with a consolidated pay of Rs.2,000/- per month. The petitioner was suspended from service by the

second respondent on 14.11.2013, with immediate effect, for using the new bill book instead of using the running bill book on 03.11.2013. After suspension of service, no subsistence allowance was paid to the petitioner. The petitioner has made a representation dated 30.06.2014 for payment of subsistence allowance.

3. In the suspension order issued to the petitioner, there was no mention about the payment of subsistence allowance. But, as per the rules, when an employee was suspended from service, the management ought to pay the subsistence allowance. But in the petitioner's case, he was not paid with the subsistence allowance from 14.11.2013 to till date and there was also no mention about the payment of subsistence allowance in the suspension order.

4. The second respondent has also issued a charge memo dated 02.07.2015, and a detailed reply was given by the petitioner. Thereafter, the petitioner was served with an enquiry notice dated 29.07.2015, directing the petitioner to attend the domestic enquiry to be conducted on 12.08.2015 at Tamil Nadu State Marketing Corporation Ltd., (TASMAC), Namakkal. Accordingly, the Enquiry Officer has conducted the enquiry on 12.08.2015 and submitted his report.

5. Thereafter, the petitioner has sent a reminder dated 02.05.2016, subsequent to his representation dated 30.06.2014, to the second respondent, requesting to pay the subsistence allowance from the date of suspension i.e., on 14.11.2013 to till date. But no orders have been passed. Aggrieved over the same, the petitioner is before this Court by filing a Writ Petition.

6. On hearing the submissions made by the learned counsel on both sides, this Court is inclined to grant direction to second respondent to pass appropriate orders by considering the rules in existence, in respect to payment of subsistence allowance, and pay the subsistence allowance to the petitioner from 14.11.2013 onwards, within a period of four weeks from the date of receipt of a copy of this order.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.
nv/ds

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

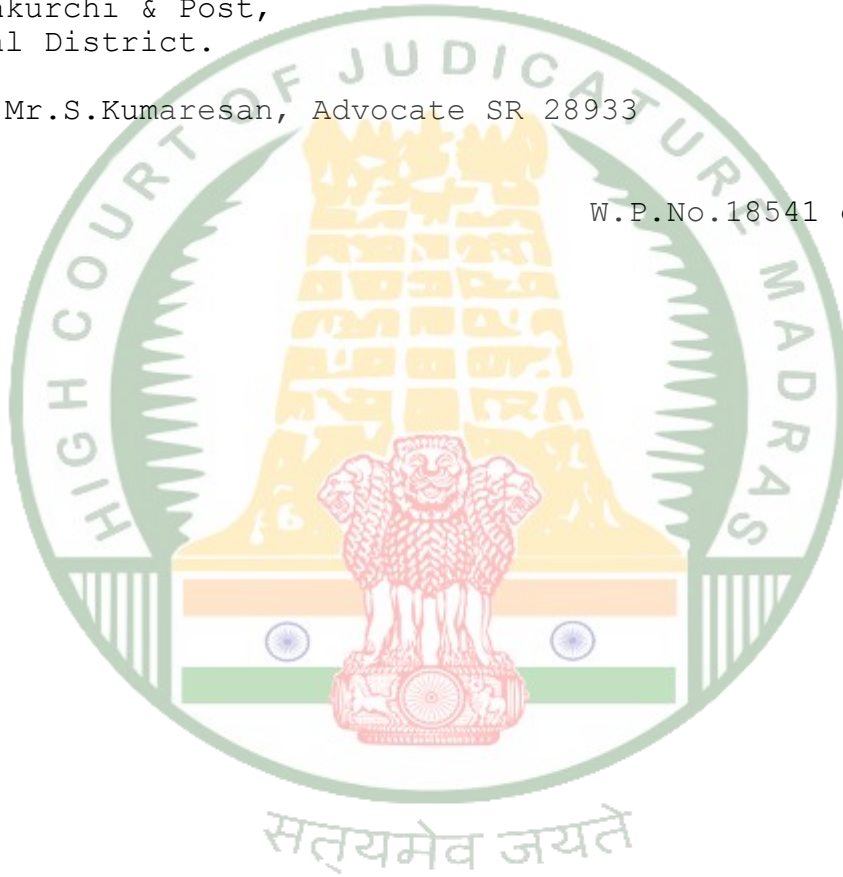
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+ 1 cc to Mr.S.Kumaresan, Advocate SR 28933

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