

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.37988 of 2016

M.A.Hameed Nizar

.. Petitioner

Vs.

- 1 The Personal Assistant to
The District Collector Collectorate Rajaji
Salai Chennai-600 001.
- 2 The Sub Collector - Cum -
Revenue Divisional Officer Tondiarpet
Division Tondiarpet Chennai-600 081.
- 3 The Thasildar
Perambur Circle Perambur
Chennai-600 011.

.. Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the respondents to pay the subsistence allowance to the petitioner from 1.2.2015 onwards till date and consequently direct the respondents to pay the subsistence allowance regularly.

For Petitioner : Mr.K.Sannjay

For Respondents : Mr.K.Dhananjayan,
Spl. Govt. Pleader

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the respondents to pay the subsistence allowance from 1.2.2015 onwards till date and consequently, to direct the respondents to pay the subsistence allowance regularly.

3. It is the case of the petitioner that he was selected and appointed as Village Administrative Officer on 12.3.1984 through Tamil Nadu Public Service Commission. While so, all of a sudden, on 2.12.2005, he was placed under suspension by the first respondent under Rule 17(b) of the Tamil Nadu Civil Service Rules (D & A), on the ground that the petitioner was involved in a criminal case in Crime No.758 of 2005 under Sections 465, 467, 468 and 420 read with 109 I.P.C. Thereafter, on 30.1.2015, he was not permitted to retire from service. Since the petitioner was not permitted to retire from service, he is eligible to get subsistence allowance. But, the respondents have not paid the same till date. In this regard, he sent several representations to the respondents to pay the subsistence allowance. But, the said representations were not considered. Thereafter, on 19.7.2016, the third respondent has passed an order for payment of subsistence allowance and the same was forwarded to the respondents 1 and 2. In the said proceedings, the third respondent has specifically stated that the petitioner is entitled for subsistence allowance. In spite of the same, the respondents have not paid subsistence allowance to the petitioner. Finally, the petitioner made a representation dated 22.8.2016 to the respondents. Since the same was also not considered, left with no other alternative, the petitioner has come up with the present writ petition for the relief set out earlier.

4. I have heard the learned counsel appearing for the petitioner and the learned Special Government Pleader, who has taken notice on behalf of the respondents.

5. The only grievance of the petitioner is that during the period of suspension, he has not been paid with subsistence allowance. Though the third respondent, in his proceedings dated 19.7.2016, has specifically stated that the petitioner is entitled for subsistence allowance, the same was not considered by the respondents 1 and 2. In this regard, the petitioner sent a representation dated 22.8.2016 to the respondents. But, the same was also not considered. Hence, the present petition.

6. Considering the facts and circumstances of the case and considering the submissions made on either side, without going into the merits of the claim projected by the petitioner, this Court directs the petitioner to give a copy of the representation dated 22.8.2016 along with a copy of this order to the respondents 1 and 2 within a period of two weeks from the date of receipt of a copy of this order and on receipt of the

same, the respondents 1 and 2 are directed to consider the representation seeking subsistence allowance and pass appropriate orders, on merits and in accordance with law, within a period of three weeks thereafter. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1 The Personal Assistant to
The District Collector, Collectorate Rajaji
Salai Chennai-600 001.
- 2 The Sub Collector - Cum -
Revenue Divisional Officer Tondiarpet
Division Tondiarpet Chennai-600 081.
- 3 The Thasildar
Perambur Circle Perambur
Chennai-600 011.

+1cc to Mr.K.Sannjai, Advocate Sr.62272
+1cc to the Government Pleader sr.62489

W.P.No.37988 of 2016

ctr[co]
srg 07/11/2016

WEB COPY