

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.41300 of 2016

C.Rajendiran

.. Petitioner

vs.

1.The Tamil Nadu Civil Supplies Corporation Ltd.,
Rep. by its Chairman and Managing Director,
No.12, Thambusamy Road, Kilpauk,
Chennai-600 010.

2.The General Manager (Admn)
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road, Kilpauk,
Chennai-600 010.

3.The Regional Manager,
The Tamil Nadu Civil Supplies Corporation Ltd.,
Thirupur. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent relating to the impugned order dated 27.3.2014 bearing Reference No.Proc.No.AE 1/64371/2013 and quash the same in as much as they refuse subsistence allowance to the petitioner and consequently direct the respondents to pay subsistence allowance to the petitioner for the further extended period i.e., from 01.04.2014 to 30.09.2014.

For Petitioner : Mr.Bharatha Chakravarthy
for M/s.Sai Bharath and Ilan

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Cooperative Societies)

O R D E R

By consent, this Writ Petition is taken up for final disposal.

2. The petitioner joined the services of the Tamil Nadu Civil Services Corporation/respondents as a Watchman with effect from 20.04.1975 and by sheer dint of hard work, sincerity and merit, he raised to the level of Regional Manager and worked in the services of the third respondent and he ought to have retired on superannuation on and with effect from 30.09.2013. However, to his shock and surprise, just 5 days prior to his superannuation, he was issued with an order of suspension on 25.09.2013, pointing out certain lapses as noticed by the Directorate of Vigilance and Anti Corruption in respect of duties discharged by the petitioner in Thirupur Region and enquiry into the grave charges were also contemplated. The petitioner was kept under suspension between 25.09.2013 and 25.03.2014 for a period of six months and in accordance with Regulations 13(a) and 13(b), Chapter-I of Fundamental Regulation of the Tamil Nadu Civil Supplies Employees Service Regulations, 1989, he was paid with Subsistence Allowance. The order of suspension was extended for a further period of six months from 27.03.2014 to 30.09.2014. The petitioner had also participated in the enquiry and final order was passed on 02.09.2014 imposing a punishment of stoppage of increment for a period of one year with cumulative effect and on account of the final order passed, the order of suspension was revoked and the petitioner was permitted to retire. The grievance expressed by the petitioner is that though for the initial period of suspension viz., 25.09.2013 to 25.03.2014, he was paid with Subsistence Allowance, however for the extended period of suspension from 27.03.2014 to 30.09.2014, he was not paid with Subsistence Allowance. The petitioner, in this regard, has also made a grievance and it was rejected by the first respondent, vide impugned order dated 27.03.2014 and challenging the legality of the same, the petitioner has come forward with this writ petition.

3. Mr.Bharatha Chakravarthy, learned counsel appearing for the petitioner has drawn the attention of this Court to the Regulations 13(a) and 13(b), Chapter-I of Fundamental Regulation of the Tamil Nadu Civil Supplies Employees Service Regulations, 1989 and would submit that as long as the petitioner remain under suspension, duty is cast upon the respondents to pay Subsistence Allowance for the reason that the said amount is required to eke out livelihood and to have minimum bare subsistence and as such, the stand taken by the first respondent in the impugned order is unsustainable and prays for quashing the same and directing the respondents to pay the arrears of Subsistence Allowance for the above said period.

4. Mr.L.P.Shanmugasundaram, learned Special Government Pleader (Cooperative Societies) appearing for the respondents would submit that as per the Regulations, Subsistence Allowance

can be paid only for the initial period of six months and if it is extended beyond the said period, Subsistence Allowance cannot be paid and in the light of the said Regulation, the first respondent has rightly rejected the claim of the petitioner and prays for dismissal of this writ petition.

5. This Court has considered the rival submissions and also perused the entire materials available on record.

6. It is a well settled position of law that Subsistence Allowance is paid to a suspended employee to have a minimum bare existence and it is not only for the benefit of the suspended employee but also for the benefit of his family and the only condition to be satisfied is that the petitioner shall not earn any salary/income through other means. The interpretation given by the first respondent, in the considered opinion of this Court, is wholly unsustainable for the reason that as long as it keeps the petitioner under suspension, liability to pay Subsistence Allowance is mandatory subject to a condition that the petitioner should not earn income through other avocations and it is not even the case of the respondents that the petitioner was in receipt of any income through other sources. Therefore, this Court is of the view that the impugned order of the first respondent warrants interference.

7. In the result, this Writ Petition is allowed and the impugned order of the first respondent dated 27.3.2014 bearing Reference No.Proc.No.AE 1/64371/2013 is set aside and the first respondent shall consider and dispose of the petitioner's representation dated 24.09.2016 on merits and in the light of the observations made in this writ petition and pass positive orders as expeditiously as possible and not later than four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs.

Sd/-
सत्यमेव जयते

Assistant Registrar

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Sub Assistant Registrar

jvm

To

1.The Chairman and Managing Director,
The Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road, Kilpauk,
Chennai-600 010.

2.The General Manager (Admn)
Tamil Nadu Civil Supplies Corporation Ltd.,
No.12, Thambusamy Road, Kilpauk,
Chennai-600 010.

3.The Regional Manager,
The Tamil Nadu Civil Supplies Corporation Ltd.,
Thirupur.

+lcc to Mr.Sai Bharath and Ilan, Advocate, S.R.No.74276
+lcc to Mr.L.P. Shanmugasundaram, Advocate, S.R.No.74157

VD(CO)
md(18/01/2017)

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