

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.41593 of 2016

G.Muthukumarasami

... Petitioner

Vs.

1.The Joint Director,
Joint Director of Collegiate Education,
Regional Office,
Thanjavur.

2.The Secretary & Correspondent (HR & CE),
Poompuhar College (Autonoms),
Malaiyur-609 107,
Sirkali Taluk,
Nagapattinam District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to disburse the Subsistence Allowance under fundamental Rule 53/1 based on the suspension order in Proceedings No.A/27/2015 on the file of the respondent dated 06.03.2015 to the petitioner.

For Petitioners : Mr.D.Veerasekaran

For respondents : Mr.V.Anandhamoorthy, AGP (For R1)

Mr.Maharaja Spl GP (HR & CE) (For R2)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, directing the respondents to disburse the Subsistence Allowance under fundamental Rule 53/1 based on the suspension order in Proceedings No.A/27/2015 on the file of the respondent dated 06.03.2015 to the petitioner.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows_

2-1.The 2nd respondent-College is a Government aided college and it called for application for the appointment

of the post of Assistant Professor to the Tamil Department vacancy of three posts during November, 2008. Nearly 65 applicants applied for the said post. The petitioner has also applied for the said post and he was called for an interview to be conducted by the Selection Committee, which was nominated by the 2nd respondent-college, during the month of December, 2008. Thereafter, the petitioner was selected for the said post based on the merits, as No.1 candidate among the three posts to the said Tamil Department. The petitioner joined as Assistant Professor in the Tamil Department of the 2nd respondent-college on 06.01.2009. After completion of five years service as Assistant Professor in Tamil Department, without any adverse remarks, the petitioner was upgraded based on the increment in gratuity.

2-2.Before joining as Assistant Professor in Tamil Department, the petitioner's marriage was solemnized under Hindu rites and customs at Mannargudi on 24.08.1996. Due to the said wedlock, two daughters were born and now, they are aged about 19 years and 16 years. One of the daughters viz., M.Shanmugapriya is studying 2nd years B.E. (E.C.E) at AVC College, Mannampanthal, Mayiladuthurai and another daughter namely M.Jothika is studying XIth Standard in ARC Vishwanathan Matriculation Higher Secondary School, Sitherkadu, Mayiladuthurai. The petitioner's wife underwent surgery, for which the petitioner obtained hand loan from one Mathimannan, for a sum of Rs.2 lakhs, with interest, in the year 2013. For the loan amount, the said Mathimannan received a chequer for a sum of Rs.2 lakhs, from the petitioner as guarantee. The petitioner paid the interest in the year 2013 regularly as demanded. But, the said Mathimannan started threatening the petitioner with goondas and came to his house and took away 3 cheques from the petitioner's house.

2-3.It is further stated by the petitioner that the said Mathimannan presented two cheques of State Bank of India, Myladuthurai to the Axis Bank of Pudukkottai Branch on 24.12.2013 and the said cheque was returned as insufficient fund on 26.12.2013. Thereafter, the said Mathimannan filed a complaint under Section 138 of Negotiable Instruments Act before the learned Judicial Magistrate, Pudukkottai. When the said case was pending before the Court, the petitioner was not able to attend the Court due to the sickness and the learned Judicial Magistrate issued NBW against the petitioner. Further, the said Mathimannan sent a letter/complaint against the petitioner before the Commissioner, HR & CE, Chennai, informing about the non-bailable warrant issued against the petitioner in connection with the case pending before the Court. Based on the said letter/complaint, the 2nd respondent-College which is under the control of Commissioner, HR & CE Department, Chennai, conducted

an enquiry on 20.02.2015 and subsequently, the 2nd respondent-College placed the petitioner under suspension under Sub-Rule (e) of 17 of the Tamil Nadu Civil Service (Discipline & Appeal) Rules, on 06.03.2015. It is the grievance of the petitioner that the petitioner was not paid with the subsistence allowance. Though the petitioner made request on several occasions, no subsistence allowance was not paid to the petitioner. Hence, the petitioner has come forward with the present writ petition.

3.Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the 1st respondent and the learned Special Government Pleader appearing for the 2nd respondent and perused the materials available on record.

4.Considering the facts and circumstances of the case and submissions made on either side, without expressing any opinion on the merits of the claim made by the petitioner, this Court directs the petitioner to give a fresh representation to the 2nd respondent, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such representation, the 2nd respondent is directed to consider the same and to pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

With the above directions, the writ petition is disposed of.
No costs.

Sd/-
Assistant Registrar

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

SSV

To

1.The Joint Director,
Joint Director of Collegiate Education,
Reginal Office,
Thanjavur.

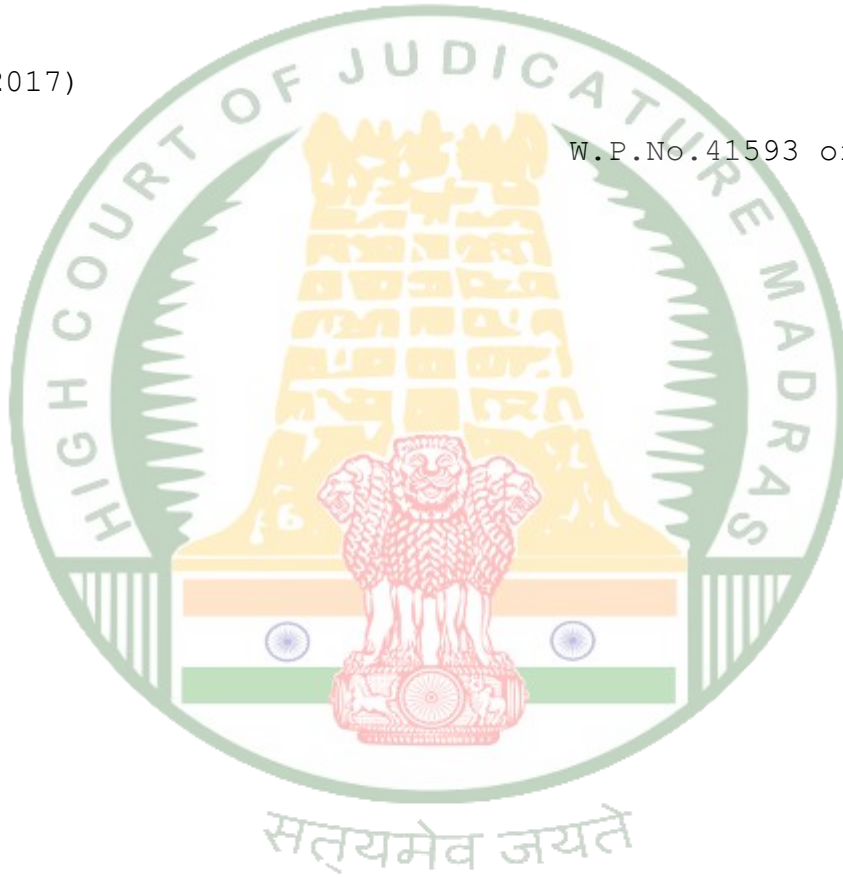
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2.The Secretary & Correspondent (HR & CE),
Poompuhar College (Autonoms),
Malaiyur-609 107,
Sirkali Taluk,
Nagapattinam District.

+lcc to Mr.D. Veerasekaran, Advocate, S.R.No.70903
+lcc to the Government Pleader, S.R.No.71038

kgk(CO)
md(05/01/2017)

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