



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.02.2016

CORAM:

WEB COPY THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P(MD) No. 3768 of 2016

S.Santhana Krishnan

... Petitioner

Vs.

1. The Revenue Divisional Officer,
Sivagangai Division,
Sivagangai.

2. The Tahsildar,
Kalayarkovil Taluk,
Kalayarkovil,
Sivagangai District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent i.e., the Revenue Divisional Officer, Sivagangai to consider the petitioner's representation, dated 17.10.2015 for grant of subsistence allowance not exceeding provisional pension as per the provision contained under First Proviso to Rule 53(III) of the Fundamental Rules within a specified time frame that may be fixed by this Court.

For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.M.Murugan,
Government Advocate

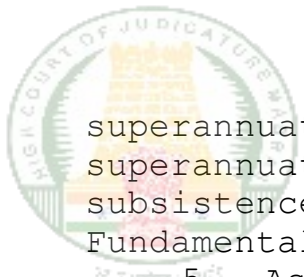
ORDER

Mr.M.Murugan, learned Government Advocate takes notice for the respondents.

2. By consent of parties, the main Writ Petition is taken up for final disposal.

3. This is a case of retired employee seeking Mandamus for payment of subsistence allowance.

4. The case of the petitioner is that though he attained the age of superannuation, he was not allowed to retire and was placed under suspension. There is a criminal case pending against the petitioner in Crime No.2 of 2011 before the Chief Judicial Magistrate, Sivagangai for the offences under Section 7 and 13(2) of the Vigilance and Anticorruption Act. He was getting 75% of subsistence allowance till the date of



superannuation. As he is not allowed to retire on the date of superannuation and kept under continued suspension, his subsistence allowance is to be paid as per Rule 53(III) of the Fundamental Rules.

5. As per Rule 53(III) of the Fundamental Rules, if a Government servant is under continued suspension after the date of retirement, the amount of subsistence allowance shall be reduced to amount of pension which will be provisionally admissible to him, de hors the fact that the Government Servant is exonerated from the charges or not.

6. Admittedly, the petitioner has not been paid the subsistence allowance and for which, the petitioner has made a representation on 17.10.2015 to the Revenue Divisional Officer, who is the first respondent herein and the same is said to be still pending.

7. Considering the above stated facts and circumstances of the case, without going into the merits of the case, the first respondent is directed to consider the representation of the petitioner, dated 17.10.2015, and pass orders on the same, on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar(W)

/True copy/

Sub Assistant Registrar

To

1.The Revenue Divisional Officer,
Sivagangai Division, Sivagangai.

2.The Tahsildar, Kalayarkovil Taluk,
Kalayarkovil, Sivagangai District.

+one cc to Mr.S.Visvalingam, Advocate in SR.No.10252

+one cc to The Special Government Pleader in SR.No. 10496

pm

CSL/SK-SKN/01.03.2016/2p/5c

W.P(MD)No.3768 of 2016

23.02.2016