

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2017

Coram

The Hon'ble Mr.Justice S.M.SUBRAMANIAM

Writ Petition No.21635 of 2017

S.Subramanian

...Petitioner

Vs.

1. The Commissioner of Municipal Administration
Chepauk
Chennai - 600 005.

2. The Commissioner
Sirkazhi Municipality
Sirkazhi.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the respondents to make the payment of subsistence allowance and other monetary benefits from 24.10.2014 with further revisions in the subsistence allowance together with eligible interest for the belated payment within the stipulated time.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.C.C.Rangarajan
Government Advocate for R1
Mr.K.V.Dhanapalan for R2

O R D E R

The relief sought for in this writ petition is for a direction to the respondents to pay the subsistence allowance to the petitioner, as applicable, with effect from 24.10.2014.

2. The writ petitioner was holding the post of Public Works Overseer in Sirkazhi Municipality and he was not allowed to retire from service on 31.10.2014, on attaining the age of superannuation, in fact, he was placed under suspension on account of registration of a criminal case by the Director of Vigilance and Anti-corruption. The criminal case is still pending, however, the respondents have not paid the subsistence allowance not exceeding the provisional pension, as applicable under the Rules, to the writ petitioner. In this regard, the writ petitioner made several representations on 14.12.2016,

30.06.2017 and 05.07.2017. In spite of this, no subsistence allowance has been paid till date to the writ petitioner.

3. Subsistence allowance is a basic right of an employee who is placed under suspension. Non payment of subsistence allowance is violation of Article 21 of the Constitution of India. Subsistence allowance is a livelihood of an employee, who is under suspension. In view of the fact that the delinquent has to face the departmental disciplinary proceedings and he has to survive and support his family only from and out of the payment of subsistence allowance. The Hon'ble Supreme Court has also time and again emphasized that non payment of subsistence allowance to a delinquent is a serious irregularity and the respondents who are placing an employee under suspension have to pay the subsistence allowance till the disposal of the disciplinary proceeding.

4. This being the view of this Court, the respondents are directed to pay the subsistence allowance not exceeding the provisional pension, as applicable under the rules, to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. Accordingly, the writ petition stands allowed. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Commissioner of Municipal Administration
Chepauk, Chennai - 600 005.
2. The Commissioner
Sirkazhi Municipality, Sirkazhi.

+1cc to M/s.R.Chavan,Advocate sr.60888

+1cc to Government Pleader sr.61029

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