

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.19926 of 2017

G. Vijay

... Petitioner

Vs.

The Joint Director,
Office of the Joint Director
of Animal Husbandry,
Animal intelligence Unit,
Vellore - 632 004.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the Respondent to pay to the petitioner the Subsistence Allowance on the basis of his representation dated 19.04.2017, within a time frame fixed by this Hon'ble Court.

For Petitioner : Mr.S.Sathiachandran

For Respondent : Mr.J.H.Iniyan,
Government Advocate

O R D E R

The relief sought for in this writ petition is for a direction to direct the respondent to pay the subsistence allowance to the petitioner.

2. The learned counsel appearing for the writ petitioner contended that the writ petitioner is working as a driver in the Department of Animal Husbandry. On account of certain allegations, the writ petitioner was placed under suspension in proceedings dated 4th October, 2016.

3. The learned counsel states that the subsistence allowance has not been paid in accordance with the rules. The writ petitioner made a representation to the respondent on 19th April, 2017 in this regard and the same is not considered.

4. Subsistence Allowance is a basic right of an employee, who is subjected to an order of suspension. Payment of subsistence allowance cannot be denied and it is a livelihood. The Hon'ble Supreme Court of India also held that non payment of subsistence allowance is in violation of Article 21 of the Constitution of India, since subsistence allowance is the source of livelihood for an employee, who is facing disciplinary proceedings. An employee under suspension cannot undertake any other employment during the course of suspension.

5. Thus, the subsistence allowance is the only way out to lead his life during the period of suspension. However, such an employee under suspension has to produce necessary affidavit/certificate, showing that he is not gainfully employed elsewhere in accordance with the rules/regulations/standing orders. On production of the necessary affidavit/certificate, the competent authority has to disburse the subsistence allowance promptly and without any delay.

6. In view of the matter, the respondent is directed to consider the representation submitted by the writ petitioner on 19th April, 2017 and pass appropriate orders in respect of the subsistence allowance on merits and in accordance with the rules within a period of four weeks from the date of receipt of a copy of this order. The writ petitioner is directed to enclose the copy of the representation along with the order passed in this writ petition.

7. Accordingly, the writ petition stands disposed of. However, there is no order as to costs.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

kak

To

The Joint Director,

Office of the Joint Director of Animal Husbandry,

Animal intelligence Unit,

Vellore - 632 004.

+ 1 cc to Mr.S. Sathiachandran, Advocate Sr.55580

+ 1 cc to the Government Pleader Sr.56288

W.P.No.19926 of 2017

RJ(CO)

EU 31.08.17