

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.39050 of 2015
and
W.M.P.Nos.1 & 2 of 2015

N. Jayaraman

... Petitioner

Versus

1. The Regional Manager,
Regional Business Office - 5,
State Bank of India,
No.15, 1st Floor,
Officers line,
Vellore - 632 001.
2. The Chief Manager,
State Bank of India,
Agricultural Development Branch,
Hosur, Krishnagiri District.
3. The Inspector of Police,
Hosur Town Police Station,
Hosur, Krishnagiri District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order No.RBO-5/12/2015-16/DIS/CON/1714 dated 25.09.2015 passed by the 1st respondent and order No.RBO-5/12/2015-16/DIS/CON/1716 dated 25.09.2015 passed by the 1st respondent and quash the same and consequently direct the 2nd respondent to reinstate the petitioner in his original post in the 2nd respondent office.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.S.Ravindran,
Senior Counsel for
Mr.S.Basheer Ahamed (R1 & R2)

Mr.S.Gunasekaran
Additional Government Pleader(R3)

O R D E R

The order of suspension issued by the first respondent in proceedings dated 25.09.2015, is under challenge in this writ petition.

2.The writ petitioner was working as a Customer Assistant in the State Bank of India. On account of certain series of allegations, a criminal case was registered against the writ petitioner and simultaneously, Departmental Disciplinary Proceedings were also initiated under the Memorandum of Settlement dated 10.04.2002. Pending initiation of the disciplinary proceedings with regard to allegations, the writ petitioner was placed under suspension.

3.The learned counsel appearing for the writ petitioner submits that during the pendency of suspension the Subsistence Allowance has not been paid to the writ petitioner. This Court is of the opinion that an employee under suspension is entitled for subsistence allowance under the Rules.

4.The learned Senior Counsel appearing for the respondents made a submission that it is not a case, as if no subsistence allowance has been paid. Contrarily, the allegation of the writ petitioner is that less subsistence allowance is paid and the payment of subsistence allowance is not in accordance with the Rules in force. However, it is for the respondents to apply the Rules in force in this regard and grant subsistence allowance as long as the writ petitioner is kept under suspension.

5.Subsistence allowance being a basic right of an employee and non-payment of subsistence allowance is in violation of Article 21 of the Constitution of India. An employee under suspension is not allowed to work anywhere during the pendency of disciplinary proceedings. Such being the case, the subsistence allowance alone is the livelihood for an employee under suspension. This being the principle, the payment of subsistence allowance in accordance with the Rules can never be denied to the employee under suspension.

6.A criminal case registered against the writ petitioner is under investigation and the departmental proceedings are also in progress. Under these circumstances, the grounds raised on merits in this writ petition need not be considered by this Court and it is left open to the writ petitioner to submit his explanations/objections and to defend his case in accordance with the Rules before the enquiry proceedings to be conducted by the respondents. In this view of the matter, no further consideration is required on the merits of the order of

suspension.

7.The learned counsel appearing for the writ petitioner submits that the enquiry proceedings are already commenced and a direction has to be issued to conclude the enquiry proceedings as early as possible to avoid further hardship to the writ petitioner in this regard.

8.Considering the reasonable submission made on behalf of the writ petitioner, this Court is inclined to direct the respondents to proceed with the enquiry as early as possible and conclude the same in all respects and pass final orders, within a period of six months from the date of receipt of a copy of this order. The time limit is fixed on a condition that the writ petitioner shall co-operate for the disposal of the disciplinary proceedings in all respects. In the event of non co-operation, the time limit shall not be binding on the respondents. In respect of subsistence allowance, the respondents are directed to calculate the subsistence allowance in accordance with the Rules in force and pay the difference, within a period of four weeks from the date of receipt of a copy of this order. As far as the impugned order of suspension is concerned, no consideration needs to be shown on merits and on the grounds raised in this writ petition. Accordingly, the suspension order shall continue until the review process is taken up by the Competent Authorities in this regard.

9.Accordingly, the writ petition stands disposed of. However, no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CO)

//True Copy// सत्यमेव जयते

Sub Assistant Registrar

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To

1. The Regional Manager,
Regional Business Office - 5,
State Bank of India,
No.15, 1st Floor,
Officers line, Vellore - 632 001.

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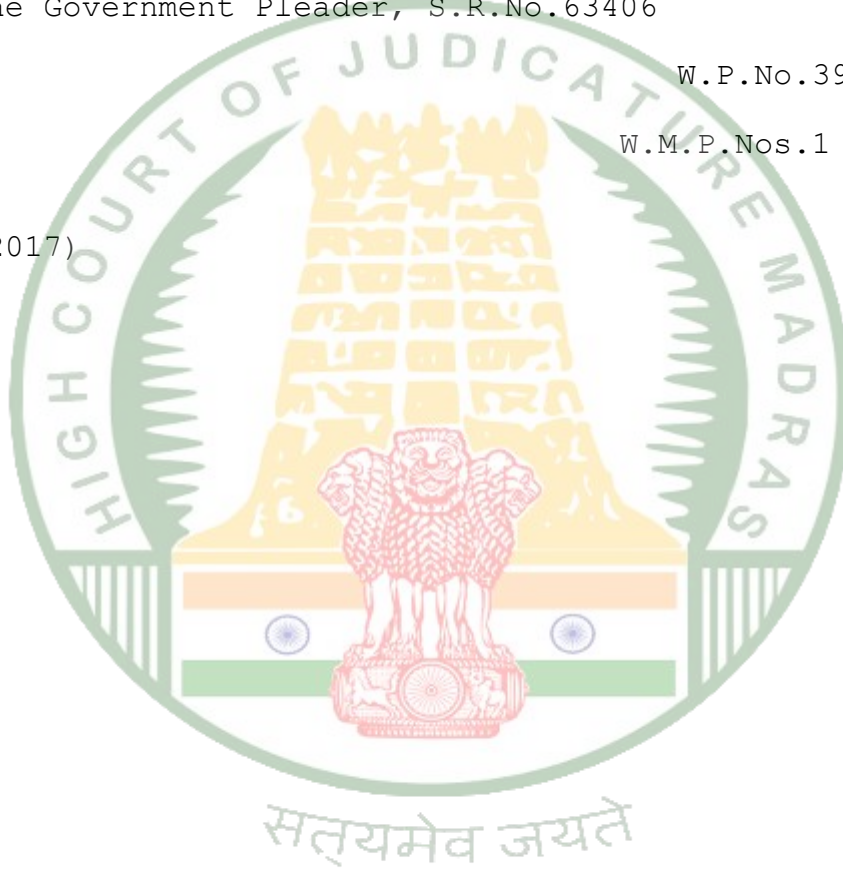
2. The Chief Manager,
State Bank of India,
Agricultural Development Branch,
Hosur, Krishnagiri District.

3. The Inspector of Police,
Hosur Town Police Station,
Hosur, Krishnagiri District.

+lcc to Mr.M.Gnanasekar, Advocate, S.R.No.65093
+lcc to Mr.S.Basheer Ahamed, Advocate, S.R.No.63419
+lcc to the Government Pleader, S.R.No.63406

W.P.No.39050 of 2015
and
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GJ(CO)
CA(20/09/2017)



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