

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.08.2017

Coram

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

Writ Petition No.40200 of 2016

S.S.Srinivasan

...Petitioner

Vs.

1. The Chief Educational Officer  
Vellore District, Collectorate Building  
Sathuvachari, Vellore - 632 009.
2. The Joint Director (Higher Secondary)  
Directorate of Government Examinations  
College Road, D.P.I. Campus  
Nungambakkam, Chennai - 600 006.
3. The Headmaster  
Government Boys Higher Secondary School  
Latheri - 632 202, Vellore District.
4. The District Educational Officer  
Vellore District, Kasthamettu Street  
Kosapet, Vellore - 632 001.

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, for issuance of Writ of Mandamus, directing the 1st and 3rd respondents to regularly pay the subsistence allowance payable to the petitioner and to pay the arrears of subsistence allowance to the petitioner calculated at 75% of the pay last drawn by the petitioner from 23.03.2015 till the date of revocation of the suspension, as per the prevailing Rules, together with interest, and to direct the 4th respondent, who was appointed as the Enquiry Officer vide the 1st respondent's proceedings bearing Na.Ka.No.5049/a4/2014 dated 22.04.2016, to commence, conduct and complete the enquiry as expeditiously as possible after giving due opportunity to the petitioner.

|                 |   |                                                |
|-----------------|---|------------------------------------------------|
| For Petitioner  | : | Mr.Arun Anbumani                               |
| For Respondents | : | Mr.K.Dhananjayan<br>Special Government Pleader |

O R D E R

The writ petitioner was placed under suspension vide proceeding in Na.Ka.No.5049/A4/2014 dated 23.09.2014, on account of certain allegations against him. The allegations stated is that the writ petitioner has produced a bogus mark statement and thereby committed mis-conduct.

2. The learned counsel appearing for the writ petitioner contended that the order of suspension was issued on 23.09.2014 and the enquiry officer was appointed on 22.04.2016. However, there is no progress in the enquiry and the writ petitioner is continuing under suspension for about 3 years.

3. In such view of the matter, the learned counsel for the petitioner urges that it is suffice, if a direction is issued to complete the enquiry and pass final orders in the disciplinary proceedings. In view of the fair statement made by the learned counsel for the petitioner and the fact that the disciplinary proceedings are pending for about 3 years, there is no reason to delay the matter further.

4. The learned counsel for the writ petitioner would further contended that the Subsistance Allowance has not been paid regularly. Subsistance Allowance is a basic right of an employee, who is under suspension and non payment of Subsistance Allowance will vitiate the disciplinary proceedings.

5. That apart, payment of Subsistance Allowance is a right to life and such right is ensured under Article 21 of the Constitution of India. Thus, the Constitutional Courts, time and again emphasized that payment of Subsistance Allowance should be denied. Hence, non payment of Subsistance Allowance has to be looked into by the respondents and if there is any delay, the same is to be paid without any further delay and only after paying Subsistance Allownace, the respondents can continue enquiry proceedings.

6. Accordingly, the respondents are directed to complete the disciplinary proceedings in all respects and pass final orders, by affording opportunity to the writ petitioner in the disciplinary proceedings, within a period of four months from

the date of receipt of a copy of this order. No costs.  
Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1. The Chief Educational Officer  
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+1 CC to Mr. Arun Anbumani, Advocate sr 55562.

+1 Cc to The Govt. Pleader sr 56295.

Writ Petition No.40200 of 2016

EV(CO)  
sp(31/08/2017)

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