



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.12.2016

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.23828 of 2016 and

W.M.P.(MD) No.17171 of 2016

N.Hariharan

...Petitioner

-vs-

1. The Superintending Engineer,  
Water Resource Organization,  
Public Works Department,  
Planning Circle, Tirunelveli.

2. The Assistant Executive Engineer,  
Nambiyaru Reservoir Project Sub Division-I,  
Cheranmahadevi, Tirunelveli.

3. The Executive Engineer,  
WRO, PWD,  
Nambiyaru Reservoir Project Sub Division-I,  
Valliyoor, Cheranmahadevi, Tirunelveli.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 2<sup>nd</sup> respondent to issue the subsistence allowance to the petitioner from the date of suspension to till the completion of six months' period under suspension at the rate of 50% last pay and thereafter to issue at the rate of 75% last pay along with dearness allowance, other permitted allowances and monetary benefits according to the 53(i)(a) (1) of Fundamental Rules within a short date.

For Petitioner : M/s.K.Abiya

For Respondents : Mr.A.K.Baskara Pandian  
Spl. Govt. Pleader

\*\*\*\*\*

O R D E R

This petition has been filed, seeking to direct the 2<sup>nd</sup> respondent to issue the subsistence allowance to the petitioner from the date of suspension till the completion of six months' period under suspension at the rate of 50% and thereafter, to issue at the rate of 75% last drawn pay along with dearness allowance, other permitted allowances and monetary benefits, according to the provisions of 53(i)(a) (1) of Fundamental Rules.



subsistence allowance (\*)till date that as per the Fundamental Rules, he is entitled to 50% initially for six months and thereafter, 75% of the last drawn pay.

3. Learned Special Government Pleader appearing for the respondents would submit that the applicable subsistence allowance has been declined to the petitioner, on the ground that he was not available in the Headquarters, as mandated under the Rules.

4. In reply, the petitioner has refuted the above contention stating that since the house owner decided to renovate the building, the petitioner was asked to vacate the house and therefore, he changed his residential address to the present address, which was duly intimated to the 2<sup>nd</sup> respondent on 14.11.2016. It is further stated that the 2<sup>nd</sup> respondent also sent a communication dated 16.11.2016 to the petitioner's present address asking him to appear for enquiry with relevant documents.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

6. It is the stand of the petitioner that the respondents verified the genuineness of his place of stay during his so-called absence. Therefore, the petitioner is directed to appear before the respondents on 07.01.2017 and produce necessary records to substantiate that he was present in the said locality at the time of verification, apart from filing an affidavit to that effect. In the meanwhile, the respondents shall pay the petitioner subsistence allowance and the arrears shall be paid to him within a period of one month from the date of his appearance and shall continue to pay the same in future on the 7<sup>th</sup> of every subsequent month from January, 2017 onwards.

7. It is needless to state that the respondents shall proceed with the enquiry after issuing charge sheet and the enquiry shall be conducted on day today basis without adjourning the same beyond seven working days at any point of time. The petitioner shall also co-operate with the enquiry. In case, the petitioner's stay at the present locality is not permitted by Rules, it is open to them to send details by Speed Post with acknowledgment.



With the above direction, this Writ Petition is disposed of.  
No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

(\*)CORRECTED ORDER DATED: 11/01/2017  
BY SVNJ MADE IN WP(MD)NO:23828 OF 2016

Sd/-  
Assistant Registrar(T&P)

Sd/-  
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS)  
Madurai Bench of Madras High Court,  
Madurai-23.

To:

**TO BE SUBSTITUTED TO THE ORDER ALREADY DESPATCHED ON 5/1/2017**

1. The Superintending Engineer, Water Resource Organization, Public Works Department, Planning Circle, Tirunelveli.
2. The Assistant Executive Engineer, Nambiyaru Reservoir Project Sub Division-I, Cheranmahadevi, Tirunelveli.
3. The Executive Engineer, WRO, PWD, Nambiyaru Reservoir Project Sub Division-I, Valliyoor, Cheranmahadevi, Tirunelveli.

+1cc to M/s.K.Abiya, Advocate in SR.83106

W.P.(MD) No.23828 of 2016 and  
W.M.P.(MD) No.17171 of 2016  
22.12.2016

AM SKN SAR 1 25 1 2017 3P 5C