



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.3116 of 2016

WEB COPY

S.Mohamed Ashiba

... Petitioner

Vs.

- 1.The Director of Elementary School Education,
Directorate of Education Department,
College Road,
Nungampakkam,
Chennai.
- 2.The District Collector,
Collectorate Building,
Theni District,
Theni.
- 3.The District Elementary Educational Officer,
District Elementary School Educational Office,
Theni District,
Theni.
- 4.The Assistant Elementary Educational Officer,
Elementary School Educational Office,
Myladumparai Union,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus, to direct the respondents to disburse the Hill Allowance and Winter Allowance to the petitioner in terms of G.O.Ms.No.47, dated 20.02.2014, issued by the Government of Tamil Nadu, based on the petitioner's representations, dated 19.12.2015 and 28.12.2015.

[Prayer amended vide Court, order dated 05.04.2016, made in W.M.P. (MD) No.4537 of 2016]

For Petitioner : Mr.R.Murugan

For Respondents : Mr.R.Karthikeyan

Additional Government Pleader

ORDER

The petitioner is working as Secondary Grade Teacher in Panchayat Union Primary School, Aranmanaipudur, Megamalai Village at Theni District. The Government of Tamil Nadu had issued G.O.Ms.No.162, Finance (PC) Department, dated 13.04.1998,



directing all the Departments to disburse arrears of Hill Allowance and Winter Allowance to the employees working in the specified designated Hills Stations, therefore, the petitioner sent representations to the respondents seeking payment of Hill Allowance and Winter Allowance in terms of G.O.Ms.No.47, Finance (Allowances) Department, dated 20.02.2014. But, the respondents failed to consider the same, hence, the petitioner has come to this Court seeking issuance of Writ of Mandamus, directing the respondents to disburse the Hill Allowance and Winter Allowance to him in terms of G.O.Ms.No.47, dated 20.02.2014, issued by the Government of Tamil Nadu, based on his representations.

2.The learned counsel appearing for the petitioner submitted that it is an admitted case of the respondents that while issuing G.O.Ms.No.49, Housing and Urban Development (UD2-2) Department, dated 24.03.2003, guidelines have been given in consultation with Hill Area Conservation Authority [HACA] taking into account the ecological area in terms of G.O.Ms.No.44, Planning and Development (TCII) Department, dated 22.04.1990. Pursuant to the same, the Hill Area Conservation Authority (HACA) has also issued guidelines vide G.O.Ms.No.49, dated 24.03.2003, wherein Aranmanaipudur, Megamalai Village, Theni District, where the petitioner is working, has been classified as a Hill Station, hence, the petitioner is eligible for Hill Allowance and Winter Allowance.

3.Referring to G.O.Ms.No.47, dated 20.02.2014, the learned counsel for the petitioner submitted that the existing rate of Hill Allowance shall be retained at the same rate of 20% of pay subject to the enhancement of maximum ceiling limit of Rs.900/- to Rs.1,500/- per month. To facilitate the receipt of the aforementioned Hill Allowance, the Revenue Administration has issued guidelines vide proceedings dated 29.06.2012 to all the District Collectors. Accordingly, the Revenue Department has also disbursed the aforementioned Allowances to all its employees in the designated Hill areas, in tune with G.O.Ms.No.49, dated 24.03.2003. That apart, G.O.Ms.No.47, dated 20.02.2014, has also been issued by the Finance (Allowances) Department, accepting the similar claim. Therefore, the respondents cannot keep the representations pending. Hence, it is pleaded, a direction may be issued to the respondents to disburse the Hill Allowance and Winter Allowance to the petitioner in terms of G.O.Ms.No.47, dated 20.02.2014.

4.Separate counter affidavits have been filed by the respondents 2 and 3. The learned Additional Government Pleader appearing for the respondents would submit that the petitioner is working in Panchayat Union Primary School, Aranmanaipudur, Megamalai Village at Theni District coming under the control of Assistant Educational Officer, Theni District. With regard to payment of Hill Allowance and Winter Allowance, recommendations were made by One Man Commission in respect of



grant of special allowances to the Government employees, who are working in the notified Hill areas. In this regard, G.O.Ms.No.499, Finance (Pay Cell) Department, dated 15.09.1998, was issued enhancing the Hill Allowance from Rs.300 to Rs.450 per month. Insofar as Winter Allowance is concerned, it was declared that;

(i) those Government Servants who are working in the places at 1000 metres to 1499 metres above MSL will be eligible 5% of basic pay subject to a maximum of Rs.100 per month.

(ii) those who are working in the places at 1500 meters above MSL will be eligible 10% of basic pay subject to a maximum of Rs.150 per month.

5.Since there was ambiguous situation in identifying hill areas, the Planning and Development Department had constituted a High Level Committee by name, Hill Area Conservation Authority [HACA]. On the basis the criteria which has been evolved, after following due procedures, finally, a consolidated list of Hill areas, which falls within the purview of Hill Area Conservation Authority [HACA], was prepared. Annexures I and II are appended to G.O.Ms.No.49, Housing and Urban Development (UD2-2) Department, dated 24.03.2003, enlisting the consolidated list of Taluks and Villages, which are actually lying in the Hill Areas within the State of Tamil Nadu. Since the petitioner is working in the place which not at all finds place in the consolidated list of the aforesaid Government Order, the claim of the petitioner for Hill Allowance and Winter Allowance cannot be considered.

6.This Court finding merits on the submission made by the learned Additional Government Pleader, is unable to entertain the Writ Petition. The reason is, when G.O.Ms.No.49, dated 24.03.2003, was issued, the place namely, Aranmanaipudur, Megamalai Village, where the petitioner is working, has not been shown as hill area, therefore, this Court is unable to entertain the prayer sought by the petitioner in this writ petition. Hence, the writ petition fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar

To

1.The Director of Elementary School Education,
Directorate of Education Department,
College Road, Nungampakkam, Chennai.

2.The District Collector,
Collector's Office Building,
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Theni.



3.The District Elementary Educational Officer,
District Elementary School Educational Office,
Theni District,
Theni.

4.The Assistant Elementary Educational Officer,
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MAS/JC/SAR2:11.09.2017:4P-5C

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