

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.9.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.A.No.2085 of 2018
and
C.M.P.No.16384 of 2018

- 1 The District Collector
Dharmapuri Dharmapuri District.
- 2 The Project Officer
ICDS Dharmapuri District. .. Appellants/Respondents

Vs

D.Thenmozhi .. Respondent/Petitioner

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 8.12.2014 passed in W.P.No.28261 of 2014 on the file of this court.

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents to pay the Petitioner the balance subsistence allowance due to her for the period 02.08.2011 to 26.07.2012 within a time frame.

For appellants : Mr.R.Govindasamy,
Special Government Pleader

For respondent : Mr.K.M.Ramesh

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned Special Government Pleader appearing for the appellants and Mr.K.M.Ramesh, learned counsel, who takes notice on behalf of the respondent.

2. It appears that with regard to misconduct of possession of unaccounted money to the tune of Rs.22,240/- and seizure of the same by the Vigilance and Anti-Corruption Wing of Dharmapuri District, the respondent herein, an Anganwadi Worker, was placed under suspension on 6.10.2009 and while dismissing the writ petition filed by the respondent in W.P.No.18284 of 2010, by order dated 2.3.2011, a direction was issued for payment of subsistence allowance. However, it appears that an order of termination came to be passed against the respondent on 2.8.2011 which was challenged in W.P.No.19657 of 2011. While setting aside the said order of termination, once again a direction was issued for payment of subsistence allowance and thereafter, the subsistence allowance appears to have been paid for a period from 6.10.2009 to 1.8.2011 and the respondent herein was reinstated on 26.7.2012. For the left out period viz., from 2.8.2011 till reinstatement i.e., 26.7.2012, the respondent herein had filed the present writ petition claiming subsistence allowance.

3. The stand taken by the appellant is that the respondent herein, being a temporary employee, is not entitled to get subsistence allowance and reliance is placed upon G.O.Ms.No.151 School and Social Welfare and Noonmeal Scheme I/2003-1 dated 11.8.2003 in this regard.

4. The scope of the said G.O. can only be speedy disposal of the disciplinary proceedings initiated against the employees like Anganwadi workers to avoid burden to the Exchequer in making payment of subsistence allowance and the default clause in the said G.O. also is to shift the burden on the officials who are responsible for the delay in completing such disciplinary proceedings. Therefore, the said G.O. cannot be a bar for making payment of subsistence allowance and the same has been rightly observed by the learned Single Judge.

5. It is further contended on behalf of the appellants that on 2.8.2011, an order of termination was passed against the respondent and hence, she would not be entitled to subsistence allowance from then onwards. The respondent seems to have been paid subsistence allowance for the period from 6.10.2009 to 1.8.2011 till the order of termination came to be passed. However, the said order of termination also came to be set aside by this court subsequently and a direction was issued to pay subsistence allowance and therefore, the above stand of the appellants cannot be upheld. We make it clear that when the respondent was paid subsistence allowance for the period earlier to the order of termination, which was later set aside by this

court, the respondent would be entitled to get subsistence allowance for the rest of the period till his reinstatement. The order passed by the learned Single Judge does not require any interference.

6. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssk

To:

1 The District Collector
Dharmapuri Dharmapuri District.

2 The Project Officer
ICDS Dharmapuri District.

+1 cc to The Government Pleader, Sr.No.67821

+1 cc to Mr.K.M.Ramesh, Advocate Sr.No.67509

RV(CO)
CSL/27.11.2018

W.A.No.2085 of 2018

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