



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.02.2018**

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.1645 of 2018

and

WMP (MD) Nos.1742 & 1743 of 2018

J.James Anbiah

... Petitioner

Vs.

1. The Director of School Education,
O/o the Director of School Education,
D.P.I Campus, College Road,
Chennai - 6.

2. The District Educational Officer,
Nagercoil Educational District,
Nagercoil, Kanyakumari District.

3. The Corporate Manager,
Board of School Education,
Corporate Management Schools,
C.S.I. Kanyakumari Diocese,
71-A, Dennis Street, Nagercoil,
Kanyakumari District.

4. The Correspondent,
Duthie Girls Higher Secondary School,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the third and fourth respondents to pay the arrears of subsistence allowance a sum of Rs.5,58,973/- by considering the petitioner's representation dated 18.01.2018.

For Petitioner : Mr.C.Venkatesh Kumar

For Respondents : Mr.J.Gunaseelan Muthaiah,
Addl.Govt.Pleader for R1&R2

Mr.F.Deepak for R3

No appearance for R4

ORDER

The petitioner is employed as Record Clerk in the fourth respondent school. He was accused of some acts of delinquency. The petitioner allegedly misappropriated monies to the tune of Rs.13,43,000/-. The petitioner questioned the order of suspension as well as the issuance of charge memo. The petitioner's endeavor ended in vein. By order dated 25.07.2017, the Hon'ble Division Bench dismissed the petitioner's Writ Appeal in WA(MD)No.219 of 2015 as well as WP(MD)No.11088 of 2014. The petitioner has now come forward with this writ petition contending that the school management did not pay him arrears of subsistence allowance to the tune of Rs.5,58,973/-.

2.The learned counsel appearing for the school management drew the attention of this Court to the order passed the Hon'ble Division Bench on 25.07.2017 in WA(MD)No.219 of 2015 and WP(MD)No.11088 of 2014. The learned counsel for the petitioner would contend that they had been paying upto 2017. But, then the impression of the school management appears to be that it is enough to the employee, if 50% of the salary alone is paid.

3.The petitioner is admittedly an employee in a aided private school. Therefore, the provisions of the Tamil Nadu Private Schools Regulations Act, 1974 will come into play. Any staff or workmen in such a school cannot be placed under suspension beyond a period of four months. Thereafter, the suspended employee will have to mandatorily reinstated. Of course, option is given to the management not to allow him to join duty. But, then the management must pay full salary to the suspended employee. In this case, the suspension order was passed as early as on 21.08.2013. Four months period have elapsed on 21.01.2014. From 21.01.2014, the petitioner is entitled to be paid full salary.

4.It is not in dispute that during the pendency of writ proceedings as well as writ appeal, the petitioner herein did not enjoy any interim order. Nothing stopped the management from concluding the enquiry in the meanwhile. The learned counsel appearing for the management would state that the petitioner was dragging on the enquiry. But, this is lame excuse. Therefore, the writ petition has to be necessarily allowed.

5.As rightly pointed out by the learned counsel appearing for the petitioner, the issue had been decided long ago by this Court in the decision reported in **2001 (1) CTC 292 [G.Anbarasan v.District Educational Officer, Cuddalore)**. It has been followed in a number of cases. The learned counsel appearing for the petitioner produced a copy of the citation reported in **2014 (1) CWC 740 (Dr.R.Peter Perinbaraja v. Joint Director, Collegiate Education)**.



6. Therefore, the respondents 3 and 4 are directed to pay the aforesaid sum of Rs.5,58,973/- to the petitioner within a period of eight weeks from today. It is made clear that the department will not be saddled with the financial liability. If the school management chose to suspend the petitioner from service, it is for the very same school management to be saddled with the financial consequences. The financial burden cannot be shifted to the department.

7. With this observation and direction, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Director of School Education,
O/o the Director of School Education,
D.P.I Campus, College Road,
Chennai - 6.
2. The District Educational Officer,
Nagercoil Educational District,
Nagercoil, Kanyakumari District.

+1cc to Mr.F.Deepak, Advocate Sr.No.51694
+1cc to Spl.Government Pleader Sr.No.51957
+1cc to M/s. Ajmal Associates, Sr.No.51888

SKM

VB/RSK/SKN/SAR4/23.05.2018/3P/6C

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