



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.03.2018

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.2229 of 2018

T.Veerakumar

... Petitioner

Vs.

The Management of
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Pudukottai Region,
Rep. by its General Manager,
Pudukottai.

...Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondent to forthwith pay subsistence allowance to the petitioner for the period from 28.01.2012, without affecting his right to get full wages and other benefits for the period from 28.01.2012 based on the outcome of the W.P. (MD) No.9512 of 2013.

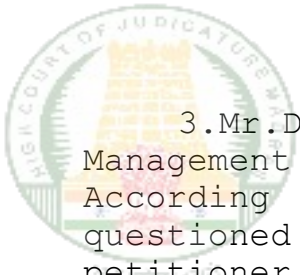
For Petitioner : Mr.S.Arunachalam

For Respondent : Mr.D.Sivaraman

ORDER

The writ petitioner was selected for the post of Driver on daily wages basis. The petitioner has enclosed copy of the order dated 24.07.2010 at page no.3 of the typed set of papers.

2.The writ petitioner was subsequently found that he has been suffering from color blindness. The Management further charged the writ petitioner and that the petitioner was therefore not given any duty. He was issued with charge memo on 29.08.2012. The petitioner gave his explanation before the Enquiry Officer. Thereafter, no order has been passed. In the meanwhile, the writ petitioner filed another Writ Petition asking for alternate duty. Till date the matter is hanging fire. Therefore, the petitioner has filed this writ petition for directing the Management to pay him subsistence allowance forthwith for the period from 28.01.2012.



3.Mr.D.Sivaraman, learned standing counsel appearing for the Management strongly opposed the claim made by the petitioner. According to him, the very appointment is void and he also questioned the claim made by the petitioner. According to him, the petitioner cannot claim duty on daily wages.

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4.Even though the contentions advanced by the learned standing counsel appearing for the respondent are attractive, this Court is of the view that the Management cannot completely evade from its liability. The fact remain that the writ petitioner was given an order of posting. He is obviously faced with the disciplinary proceedings of the respondent Corporation. That is why he was issued with charge memo and also enquiry was conducted against him.

5.In these circumstances, the respondent Corporation cannot take a stand that no subsistence allowance will be paid to the writ petitioner. This Court holds that if an employee is not given any employment, who is facing disciplinary action, he will have to be paid subsistence allowance. Therefore, the respondent is directed to quantify the subsistence allowance payable to the writ petitioner from the date when he was denied employment and disburse the same within a period of four weeks from the date of receipt of copy of this order. Accordingly, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

+1CC to Mr.D.Sivaraman Advocate in SR.No.58317,
+1CC to Mr.S.Arunachalam Advocate in SR.NO.58668.

GNS

DS/JC/SAR-3 :28.05.2018: 2P/3C

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