



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P (MD) No.8320 of 2018

S.Sangeetha

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District.

2.The Block Development Officer,
Udankudi Panchayat,
Thoothukudi District.

3. The Special Officer,
Nangaimozhi Village Panchayat,
Udankudi Town Panchayat,
Thoothukudi District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to pay the subsistence allowance to the petitioner from the date of her suspension through proceedings of the 2nd respondent dated 05.10.2016.

For Petitioner : Mr.R.Maheswaran

For Respondents : Mrs.S.Srimathy, Sp.G.P. For R1
Mr.P.Kannithevan, AGP for RR2&3

O R D E R

The prayer sought for in this writ petition is for a writ of Mandamus, directing the 2nd respondent to pay the subsistence allowance to the petitioner from the date of her suspension through proceedings of the 2nd respondent dated 05.10.2016.

2.Heard Mr.R.Maheswaran, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the first respondent and Mr.P.Kannithevan, learned Additional Government Pleader appearing for the respondents 2 and



3.The learned counsel appearing for the petitioner submits that the petitioner was suspended from service on 05.10.2016 and thereafter, by proceedings dated 13.12.2017, the second respondent asked clarification from the petitioner that whether the petitioner was not working during the suspension period for gain for the purpose of considering to grant 50% of the salary of the petitioner as subsistence allowance. Pursuant to the said clarification sought for by the second respondent, the petitioner, on 09.01.2017 has given reply stating that she has not been working anywhere for gain. In spite of the said reply having been given by the petitioner, so far, the petitioner has not been paid the subsistence allowance. Therefore, this petitioner is before this Court.

4.The learned Special Government Pleader appearing for the first respondent, on instructions, would submit that the petitioner has been suspended for the charges against her for the alleged misappropriation of the panchayat fund to the extent of Rs.62,05,697/-. Insofar as the subsistence allowance is concerned, since the time scale of pay allowed to the petitioner under G.O.Ms.No.175, Rural Development and Panchayat Raj (E5) Department, dated 05.12.2006 was stayed by this Court. The petitioner was given only the consolidated pay and when she receives consolidated pay, since there was no provision to grant of subsistence allowance and the issue of the time scale of pay is still pending before this Court, the respondents were not able to give subsistence allowance to the petitioner.

5.I have heard the said submissions made by both sides.

6.Be that as it may, if at all the petitioner is not entitled to get 50% salary based on the time scale of pay, atleast, she can be paid 50% of the consolidated pay, which she would be otherwise eligible as the petitioner had been suspended from 05.10.2016 onwards and she has also given reply to that effect that she was not working for gain anywhere. When that being the position, this Court is of the view that the petitioner shall be paid atleast 50% of the salary based on the consolidated pay and therefore, such payment shall be immediately made to the petitioner.

7.In view of the above, this writ petition is disposed of with the following direction:

"The respondents shall pay 50% of the salary of consolidated pay applicable to the petitioner for the period from 05.10.2016, the date on which she was suspended. The said payment shall be continued to be made every month. The receipt of this lesser amount of consolidated pay by the petitioner shall no way



prejudice the right of the petitioner, if ultimately the petitioner succeeds on the issue of time scale of pay. Such subsistence allowance arrears from 05.10.2016 shall be calculated and to be paid to the petitioner, within a period of four weeks from the date of receipt of a copy of this order and thereafter, the same payment shall be continued to be made by the respondents to the petitioner.

With this direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

To

1.The District Collector,
Thoothukudi District.

2.The Block Development Officer,
Udankudi Panchayat,
Thoothukudi District.

+1CC TO Mr.R.Maheswaran, Advocate, Sr No.61590

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.61884

W.P (MD) No.8320 of 2018
17.04.2018

Arul

MS/PN/SAR.3/15.05.2018/3P.5C