

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.04.2019

C O R A M

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

Writ Petition No. 9483 of 2019

R.Vadivazhahi

... Petitioner

Vs.

1.The Additional Chief Secretary to Government
Finance Department, Secretariat
Chennai - 600 009.

2.The Director cum Mission Director (FAC) of ICDS
Taramani, Chennai - 600 113.

3.The Inquiry Officer/
Pay and Accounts Officer(East)
Chennai - 600 008.

.... Respondents

PRAYER Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the respondents from conducting the enquiry without paying subsistence allowance to the petitioner from the date of her suspension namely 22.08.2016 till the date of disbursement and also to furnish the xerox copies of the document to the petitioner namely 1) Auditing report relating to charge memo, 2) MTC-70 xerox copy, 3) copies of the Bills, 4) ECS statement has been requested by the petitioner in the representation dated 05.03.2019 within a specified time limit to be fixed by this Honourable Court.

For Petitioner : M/s.T.Sellapandian

For Respondents : Mr.R.S.Selvam
Government Advocate

O R D E R

The relief sought for in the present writ petition is to forbear the respondents from conducting the enquiry without paying subsistence allowance to the petitioner from the date of her suspension, namely, 22.08.2016 till the date of disbursement and also to furnish xerox copies of the documents to the petitioner namely, 1) Auditing report relating to charge memo, 2) MTC-70 xerox copy, 3) copies of the Bills, 4) ECS statement has been requested by the petitioner in the representation dated 05.03.2019.

2.The grievances of the writ petitioner is that pursuant to the order of suspension in proceedings dated 22.08.2016, the respondents have not paid the subsistence allowance as applicable. This apart, the enquiry notice was issued in proceedings dated 28.02.2019 without furnishing copies of the documents relied upon by the department to establish the allegation set out in the charge memo issued against the writ petitioner.

3.As far as the payment of subsistence allowance is concerned, it is the duty mandatory on the part of the authorities competent to disburse the subsistence allowance by following the procedure contemplated. In this regard, the writ petitioner has to submit necessary certificates as contemplated under the Government order and in the event of submitting of such required documents, the respondents are directed to pay the subsistence allowance as applicable under the Government Rules. With regard to the documents sought for by the writ petitioner, it is needless to state that the documents relied upon by the department are to be furnished. If some of the documents are confidential in nature, the same cannot be furnished. In such an event, the writ petitioner may be allowed to peruse those documents at the time of conducting the enquiry.

4.This being the factum, the writ petitioner is directed to submit necessary certificate along with the required documents for claiming her subsistence allowance as applicable. In the event of submitting any such certificate, a decision is to be taken without any undue delay and payment of subsistence is to be made within a period of two(2) weeks from the date of receipt of a copy of such application. As far as the documents sought for by the writ petitioner is concerned, the respondents are directed to furnish the documents relied upon by the department enabling the writ petitioner to defend her case in the enquiry

before the enquiry officer. It is needless to state that the writ petitioner is bound to co-operate with the enquiry in the interest of public. In the event of non-cooperation on the part of the writ petitioner, the same shall be recorded in the proceedings and the respondents are at liberty to proceed with the enquiry in the manner known to law.

5. Accordingly, this writ petition stands disposed off. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

may

To

1. The Additional Chief Secretary to Government
Finance Department, Secretariat
Chennai - 600 009.

2. The Director cum Mission Director (FAC) of ICDS
Taramani, Chennai - 600 113.

3. The Inquiry Officer/
Pay and Accounts Officer (East)
Chennai - 600 008.

+1cc to M/s.T.Sellapandian, Advocate sr.35601

+1cc to Government Pleader sr.35808

सत्यमेव जयते

W.P. No. 9483 of 2019

rk(co)

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