

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
W.P.No.23671 of 2014

A.Elumalai

... Petitioner

Vs.

1. The Government of Tamilnadu
rep. by the Secretary,
School Education Department,
Fort St. George,
Chennai 600 009.
2. The Director of School Education,
Nungambakkam, College Road,
Chennai 600 006.
3. The Chief Educational Officer,
Thiruvallur District.
4. The Headmaster,
Government High School,
Poonimangadu,
Tiruvallur District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to pay the enhanced subsistence allowance at 75% from 15.11.1994 to 21.7.1998 after expiry of six months period of suspension under fundamental Rule 53(1) (a) and pay the arrears of the same.

For Petitioner : Mr.V.Thirupathi
For Respondents : Mr.K.Karthikeyan,
G.A. (Edn.)

O R D E R

The grievance of the petitioner in the writ petition is that the petitioner was suspended with effect from 14.11.1993 and the petitioner was paid only 50% as subsistence allowance. The petitioner is entitled for 75% as subsistence allowance. The petitioner made

representation on 25.11.2013 and 12.02.2014 to the first respondent, requesting to pay enhanced subsistence allowance at 75% for the period 15.11.1994 to 21.7.1998. However, the respondents have not passed any order till date. Hence, the petitioner has filed the present writ petition before this Court.

2. Counter affidavit has been filed by the third respondent wherein it is stated the petitioner was under suspension from 14.11.1993 to 21.7.1998 for his involvement in criminal case relating to harassment. The petitioner was also served with charge memo by the third respondent for furnishing false medical certificate for the period in which he was kept under judicial custody. It is further submitted that later on he was allowed to join duty on 22.7.1998 and subsequently, retired on attaining the age of superannuation on 28.2.2003. The petitioner was acquitted in the criminal case by the competent Court, however, in the departmental proceedings, he was let off with 'warning'. The petitioner has filed a writ petition after expiry of 17 years. The suspension period was regularized, but no salary and the subsistence allowance paid to the petitioner for the said period. Thereafter, the petitioner has filed W.P.No.8935 of 2005 to treat his entire period of suspension as duty period. Pursuant to the order passed by this Court to consider the representation of the petitioner, the request made by the petitioner was rejected. Therefore, the petitioner is not entitled for subsistence allowance for the aforesaid period.

3. As rightly pointed out by the learned Government Advocate, the petitioner was suspended for the period from 14.11.1993 to 21.7.1998. On perusal of the petitioner's representation, dated 25.11.2013 and 12.02.2014, the petitioner has not enclosed acknowledgment proof to show that the copy of the representation sent to the respondent department. The petitioner has filed the writ petition in the year 2014 for claiming subsistence allowance for the suspension period. The petitioner has slept over the matter for nearly 21 years and nearly after 10 years of his retirement on 28.2.2003, the petitioner has filed the writ petition before this Court. Therefore, the petitioner has approached this Court belatedly. Hence, the writ petition is deserves to be dismissed on the ground of laches.

In the facts and circumstances of the case, the writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS iii)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary,
Government of Tamilnadu,
School Education Department, Fort St. George,
Chennai 600 009.
2. The Director of School Education,
Nungambakkam, College Road, Chennai 600 006.
3. The Chief Educational Officer, Thiruvallur District.

+1cc to Mr.V.Thirupathi , Advocate SR.No. 33392

+1 cc to Government Pleader SR.NO. 32667

W.P.No.23671 of 2014

A.SK(30/04/2019)

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