

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.29571 of 2019

& WMP.No.29451 of 2019

S.Muthukumaraswamy ... Petitioner

Vs.

1.M/s.Neyveli Lignite Corporation India Ltd.,
rep. by its Managing Director.
Corporate Office, Block No.1,
Neyveli -607 801, Cuddalore District.

2.The Deputy General Manager/Civil
Thermal Station -II(Disciplinary Authority),
DGM/CIVIL/TS II(NLC India Limited.,
Neyveli -607 807, Cuddalore District. ... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to pay the subsistence allowance from June 2019 due to the petitioner in accordance with law during the continuance of the period of suspension.

For Petitioner .. Mr.R.Subramanian

For Respondents .. No appearance

ORDER

This writ petition has been filed seeking for issuance of a Mandamus to direct the respondents to pay the subsistence allowance from June 2019 due to the petitioner in accordance with law during the continuance of the period of suspension.

2. The petitioner joined as Industrial Worker in the services of the first respondent Corporation on 10.01.1991 and

subsequently, promoted as Foreman. While he was in service, he was issued with a charge memo dated 17.02.2018 for violation of NLC Certified Standing Orders, 46(ix) and the petitioner was placed under suspension on 05.03.2018. The petitioner filed a Writ Petition in W.P.No.3117 of 2019 before this Court, challenging the charge memo, but the same was dismissed holding that the warning given is to be confined only in respect of the cases of one higher official and not the money lending business as a whole. According to the petitioner, initially, during the period of suspension, he was paid subsistence allowance till May, 2019 and thereafter, it was stopped. In this regard, the petitioner made representations dated 18.06.2019, 17.07.2019, 16.08.2019 & 12.09.2019 respectively to the second respondent requesting for payment of subsistence allowance payable to the petitioner. Since, no reply is forthcoming, the petitioner is before this Court by way of filing the present writ petition.

3. It is not in dispute that the petitioner was placed under suspension by proceedings dated 05.03.2018. Time and again, this Court as well as the Apex Court have categorically held that the suspended employee cannot be denied his right to receive subsistence allowance during the period of suspension. Subsistence allowance means a monthly grant made to a Government servant, who was placed under suspension and was not in receipt of pay or leave salary in order to sustain himself and his family. It is a statutory obligation on the part of the authority who passes suspension orders against the employees, to order monthly grant towards subsistence allowance, but it is very unfortunate to note that while issuing the suspension orders, the authorities are ignoring to order subsistence allowance. In fact, denial of subsistence allowance amounts to deprivation of very livelihood of the suspended employee and it is violative of Article 21 of the Constitution of India. In this case, though initially, during the period of suspension, he was paid subsistence allowance till May, 2019 and thereafter, it was stopped and despite representations made by the petitioner, the respondents have not taken any initiative to grant the subsistence allowance to the petitioner.

4. In view of the above, this Court is constrained to direct the respondents to consider the representations of the petitioner made on 18.06.2019, 17.07.2019, 16.08.2019 & 12.09.2019 and pass appropriate orders in accordance with law in regard to grant of subsistence allowance, within a period of four weeks from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

dn

To

1.M/s.Neyveli Lignite Corporation India Ltd.,
rep. by its Managing Director.
Corporate Office, Block No.1,
Neyveli -607 801, Cuddalore District.

2.The Deputy General Manager/Civil
Thermal Station -II(Disciplinary Authority),
DGM/CIVIL/TS II(NLC India Limited.,
Neyveli -607 807, Cuddalore District.

+1cc to Mr.R.Subramanian, Advocate Sr.86668

+2cc to Mr.N.Nithianandam, Advocate Sr.87198 and 86746

W.P.No.29571 of 2019

br[co]
srg 04/12/2019

WEB COPY