

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.10.2019

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.29565 of 2019
& WMP No.29444 of 2019

R.Periyasamy

.. Petitioner

-Vs-

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006

2.The Chief Educational Officer,
Erode District,
Erode

3.The District Educational Officer,
Erode District,
Erode

4.The Secretary,
Kasthuriba Gram High School,
Kasthuriba Gramam Archalur Via,
Erode District

5.Balasubramanian,
Secretary,
Kasthuriba Gram High School,
Kasthuriba Gramam Archalur Via,
Erode District

..Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents 1 to 3 to pass orders with a direction to the 4th respondent to pay salary to the petitioner towards Subsistence Allowance beyond the statutory period of suspension from February 2019 onwards in lieu of reinstatement or in the alternative to reinstate the petitioner into service with effect from the date of expiry of statutory period of suspension, with all consequential and other attendant benefits, by considering the representations dated 10.04.2019, 15.04.2019, and 04.09.2019 etc,.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.C.Munusamy, Spl G.P

ORDER

This writ petition has been filed seeking for issuance of a Mandamus to direct the respondents 1 to 3 to pass orders with a direction to the 4th respondent to pay salary to the petitioner towards Subsistence Allowance beyond the statutory period of suspension from February 2019 onwards in lieu of reinstatement or in the alternative to reinstate the petitioner into service with effect from the date of expiry of statutory period of suspension, with all consequential and other attendant benefits, by considering the representations dated 10.04.2019, 15.04.2019, and 04.09.2019 etc.,.

2. On a perusal of the entire affidavit filed in support of the writ petition, it appears that citing certain lapses, the petitioner, who is working as Headmaster in the 4th respondent school, has been issued with charge memos one after the other on various dates, viz., 10.7.2018, 20.07.2018, 10.09.2018 and 15.09.2018 by the 4th respondent/school management. The petitioner also submitted his explanations in respect of all the charge memos. Be that as it may, while referring to the charge memos, the petitioner came to be placed under suspension by proceedings dated 22.10.2018 by the 4th respondent. While so, having found not satisfactory of the explanations, the 4th respondent framed charges and appointed an Enquiry Officer to proceed with the enquiry and the petitioner was also issued with enquiry notice. It appears that the petitioner also moved this Court by filing writ petitions, challenging the charge memos as well as enquiry notice. The grievance of the petitioner is that even though the petitioner was placed under suspension as early as on 22.10.2018, he has not been paid subsistence allowance. In this regard, the petitioner also made representations to the respondents on 10.4.2019, 15.4.2019 and 4.09.2019. However, there was no action forthcoming despite his representations, the petitioner is before this Court.

3. It is not in dispute that the petitioner was placed under suspension by proceedings dated 22.10.2018. 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 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. In this case, it is pertinent to note that despite the 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 10.4.2019, 15.04.2019 and 04.09.2019 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, WMP is closed.

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Sd/-

Assistant Registrar (CS VI)

//True Copy//

Sub Assistant Registrar

To

1.The Director of School Education,
DPI Campus, College Road,
Chennai-600 006

2.The Chief Educational Officer,
Erode District,
Erode

3.The District Educational Officer,
Erode District,
Erode

+1cc to Mr.G.Sankaran, Advocate, SR.No.87040
(dated : 18.10.2019)

W.P.No.29565 of 2019

Kak(17/10/2019)