



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **D. KRISHNAKUMAR**

W.P(MD)Nos.4864 and 13441 of 2018 and
WMP(MD).Nos. 12255 and 12256 of 2018 in
W.P(MD)No.13441 of 2018

N. Thondi Raj ... Petitioner in both W.Ps.

Vs.

1.The Director of Municipal Administration,
Ezhilagam,
Chepauk,
Chennai - 600 005.

2.The Regional Director of Municipal Administration,
294, Melakkal Main Road,
Kochadai,
Madurai - 625 106.

3.The Municipal Commissioner,
Karaikudi Municipality,
Mudiyarasan Salai,
Karaikudi,
Sivagangai District.

.. Respondents in both W.Ps

PRAYER in W.P(MD).No.4864 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the 3rd respondent to disburse 75% of subsistence allowance as per the existing time scale of pay along with arrears to the petitioner based on the petitioner's representation dated 29.08.2016 within a fixed time limit.

PRAYER in W.P(MD).No.13441 of 2018: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certioraified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in Na.Ka.No. 2649/2011/C1 dated 28.04.2011 quash the same and consequently, directing the respondents to pass orders for his reinstatement into services within a fixed time limit that may be fixed by this Court.



For Petitioner : Mr. P. Saravanakumar in both W.Ps.

For R1 & R2 : Mr. A. Muthukaruppan
Additional Government Pleader
in both W.Ps.

For R3 : Mr. P. Mahendran
Standing Counsel in both W.Ps.

COMMON ORDER

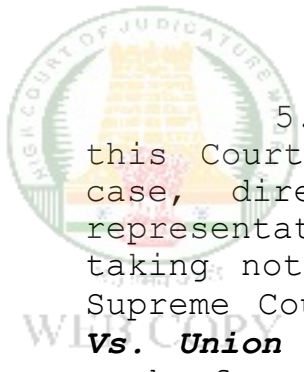
The writ petition in W.P(MD).No. 4864 of 2018 has been filed for issuing a direction to the 3rd respondent to disburse 75% of subsistence allowance as per the existing time scale of pay along with arrears to the petitioner based on the petitioner's representation dated 29.08.2016 within a time frame to be fixed by this Court.

The writ petition in W.P(MD).No. 13441 of 2018 has been filed to quash the impugned order passed by the 3rd respondent in Na.Ka.No. 2649/2011/C1, dated 28.04.2011 and consequently, direct the respondents to pass orders for his reinstatement into services within a time frame to be fixed by this Court.

2. According to the petitioner, while he was working as a Fitter in the 3rd respondent office, he was placed under suspension for the Criminal case registered against him for the offences under Sections 7 and 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988 in Crime No. 4 of 2011, on the file of the Inspector of Police, Vigilance and Anti Corruption Wring, Sivagangai. Thereafter, the said criminal case has been charge sheeted in C.C.No. 79 of 2014, on the file of the Special Court for Trial case under Prevention of Corruption Act, Sivagangai and the same is pending for trial. The petitioner was paid only 50% of the of the salary as subsistence allowance instead of 75%, which he was entitled after completion of 6 months as per Fundamental Rules 53(1) and 53(1)(c). He has stated that PW.3 evidence was also over and the same has been recorded. At this stage, the petitioner has made a representation to the authority and the same is pending.

3. The learned counsel appearing for the petitioner would submit that in the light of judgment rendered by the Hon'ble Supreme Court in the case of **Ajay Kumar Choudhary Vs. Union of India (UOI) and others** reported in **2015 (3) CTC 119**, the respondents may consider the representation of the petitioner and pass appropriate orders.

4. Heard the learned counsel appearing on either side and perused the materials available on record.



5. By considering the submissions made on both sides, this Court, without expressing any opinion on the merits of the case, directs the 1st respondent to consider the petitioner's representation, dated 29.08.2016 and pass appropriate orders, by taking note of the orders passed in the Judgment of the Hon'ble Supreme Court reported in **2015 (3) CTC 119, (Ajay Kumar Choudhary Vs. Union of India (UOI) and others)**, within a period of eight weeks from the date of receipt of a copy of this order.

6. It is open to the petitioner to approach the authority for seeking the subsistence allowance or other relief if permissible under law.

7. With the above observations and directions, both the writ petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(AS)

/TRUE COPY/

Sub Assistant Registrar

trp
To

1.The Director of Municipal Administration,
Ezhilagam,
Chepauk,
Chennai - 600 005.

2.The Regional Director of Municipal Administration,
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Kochadai, Madurai - 625 106.

3.The Municipal Commissioner,
Karaikudi Municipality,
Mudiyarasan Salai,
Karaikudi, Sivagangai District.

+1. C.C. to M/S.P.MAHENDRAN, Advocate SR.No. 80793
+2. C.C. to M/S.P.KALAIYARASI BHARATHI, Advocate SR.No. 80499

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W.P(MD)No.13441 of 201807.08.2019

JM/14.10.2019/3P/7C