

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.11810 of 2019

ORDER:

With the consent of both the counsel, this writ petition is being disposed of at the stage of admission.

This writ petition is filed seeking the following relief :-

“..... to issue an appropriate Writ, Order or Direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in continuing the petitioner under suspension for more than one and half years pursuant to Proc.No.E/ 1308/ 2017, dated 27/ 09/ 2017 issued by the 4th respondent while reinstating the co-charged officer into service and further not paying subsistence allowance for past six (6) months as being arbitrary, illegal, discriminatory and in violation of Article 14 of the Constitution of India and provisions of F.R.53 and consequently declare that the Petitioner is entitled to be reinstated into service with benefits incidental thereto duly regularizing the suspension period as on duty”.

Heard Sri V.Ravichandran, the learned counsel for the petitioner and the learned Government Pleader for respondents.

When the matter is taken up for hearing, the learned Government Pleader, on instructions, submits that subsistence allowance bill has been submitted to the Sub-Treasury Officer and in due course, the subsistence allowance will be paid to the petitioner.

Learned counsel appearing for the petitioner has submitted that earlier the petitioner has filed W.P.No.37980 of 2017 challenging the suspension order, dated 27.09.2017. This Court disposed of the said writ petition by observing as follows:-

“... The writ petition is accordingly disposed of leaving it open to the petitioner to prefer an appeal before the

appropriate appellate authority seeking review of the suspension or reinstatement into service. It is needless to observe that if an appeal is preferred by the petitioner, the same shall be considered by the appellate authority within a period of six weeks from the date of receipt of a copy of this order.....”.

Learned counsel for the petitioner further submitted that pursuant to the said order, the petitioner has preferred an appeal on 29.12.2017, but, so far, the appellate authority has not passed any orders.

This Court, having considered the rival submissions of the learned counsel for the respective parties, is of the considered view that since this Court has already disposed of W.P.No.37980 of 2017 on 13.11.2011 directing the petitioner to prefer an appeal and also directing the appellate authority to dispose of the appeal, this Court is not inclined to interfere with the suspension orders, as it is the subject matter of appeal before the appellate authority. However, the respondents are directed to pay subsistence allowance to the petitioner on month to month basis in accordance with the Rules.

With the above observations, the writ petition is disposed of. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, in this writ petition shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILU

20.06.2019
Prv

