

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.15728 of 2019

ORDER:

This writ petition is disposed of at the stage of admission, with the consent of both the parties.

2. This writ petition is filed seeking a Writ of Mandamus, declaring the action of respondents in issuing charge sheet-cum-suspension order dated 22.10.2016, without conducting any inquiry and deducting entire amount of subsistence allowance without disclosing the amount due from 01.03.2019 and reinstating other employees with similar charges, as arbitrary, illegal and violative of principles of natural justice and also violative of Articles 14, 16 and 21 of the Constitution of India and sought a consequential direction directing the respondents to pay subsistence allowance to the petitioner without deductions from 01.03.2019 or reinstate him into service forthwith and grant all consequential benefits.

3. Heard Sri A.K.Jayaprakash Rao, counsel for petitioner and Sri J.Srinivas Rao, Standing Counsel for the respondents.

4. It has been contended by the petitioner that he is working as a General Majdoor with the respondents and he has been discharging his duties to the best satisfaction of his superiors and everyone concerned. While so, the respondents have placed the petitioner under suspension vide proceedings dated 22.10.2016 on the alleged ground

that the petitioner had involved in grave misconduct of fraud and theft and other allegations. The petitioner submits that inspite of lapse of more than 3 years, the respondents are continuing the petitioner under suspension and the disciplinary authority is also not concluding the disciplinary proceedings initiated against the petitioner. Counsel for petitioner submits that the respondents are not even paying subsistence allowance to the petitioner, to which, he is entitled. Therefore, counsel for petitioner submits that appropriate orders be passed in the writ petition directing the respondents to conclude the disciplinary proceedings within a reasonable period of time, preferably within two months and further direct the respondents to pay subsistence allowance to the petitioner in accordance with Rules.

5. The Standing Counsel appearing for respondents has contended that on same set of allegations, criminal proceedings are also pending against the petitioner and inquiry officer is conducting inquiry and that the disciplinary authority will conclude the disciplinary proceedings within a reasonable period of time. He further contended that the petitioner has not approached the respondents seeking subsistence allowance and that in order to claim subsistence allowance, every employee is supposed to give an undertaking that he is not gainfully employed during the suspension period. Since the petitioner has not approached the respondents with such undertaking, the respondents have not granted subsistence allowance. If the petitioner approaches the respondents and gives an undertaking that

he has not been gainfully employed during the suspension period, respondents will consider the said request of the petitioner and would pass appropriate orders releasing subsistence allowance in favour of the petitioner.

6. This Court, having considered the rival submissions of both the parties, is of the considered view that this writ petition can be disposed of directing the respondents to conclude the disciplinary proceedings said to have been initiated against the petitioner during October 2016, within a reasonable period of time, preferably within a period of two months from the date of receipt of a copy of this order. If the disciplinary proceedings are not concluded within the above said period, the petitioner stands reinstated into service with all consequential benefits. As far as subsistence allowance is concerned, the petitioner shall approach the respondents within a period of two weeks from the date of receipt of a copy of this order with an undertaking that he is not gainfully employed during the suspension period, upon which, the respondents shall consider the same and release forthwith the subsistence allowance, to which, the petitioner is entitled to as per Rules.

7. The writ petition is disposed of accordingly. No order as to costs. Pending miscellaneous applications, if any, shall stand closed.

ABHINAND KUMAR SHAVILI, J

2nd August, 2019
ajr