



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.08.2020**

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.9203 of 2020

J.Sam Christudhas

...Petitioner

-Vs-

1.The Chief Executive Officer,
Khadhi and Village Industries Board,
Kuralagam,
Chennai-208.

2.The Assistant Director,
Khadhi and Village Industries Board,
Nagercoil.

3.The Administrator/Executive Officer,
Marthandam Bee Keepers Co-operative Society Ltd.,
No.2050, Vettumani Junction,
Marthandam, (P.O)
Kanyakumari District-629 165.

...Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the third respondent to pay the arrears of subsistence allowance beyond 50% from 27.10.2019 till the revocation of the petitioner's suspension order dated 27.07.2019 with 18% interest.

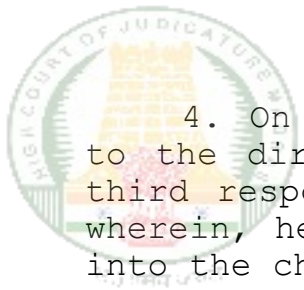
For Petitioner : Mr.D.Selvanayagam
For Respondents : Mr.M.Karuppasamy,
Government Advocate

ORDER

The prayer sought for herein in this writ petition is for a Writ of Mandamus, directing the third respondent to pay the arrears of subsistence allowance beyond 50% from 27.10.2019 till the revocation of the petitioner's suspension with 18% interest.

2.Heard Mr.D.Selvanayagam, learned counsel appearing for the petitioner and Mr.M.Karuppasamy, learned Government Advocate appearing for the respondents.

3. The petitioner had been suspended in view of the disciplinary proceedings contemplated against the grave charges, with effect from 27.07.2019. Thereafter, it seems that the petitioner has given a representation to reconsider his suspension and in this regard, an order was passed by this Court in W.P.(MD) No.26466 of 2019 to consider the request of the petitioner.



4. On consideration of the request of the petitioner pursuant to the direction issued by this Court, as referred to above, the third respondent has passed a memo/communication, dated 12.02.2020 wherein, he has stated that in view of the contemplation of enquiry into the charges, the suspension cannot be revoked at this juncture.

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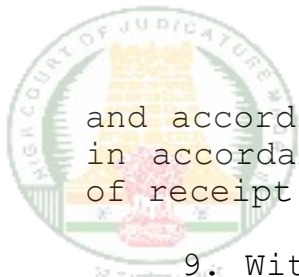
5. Though such an order has been passed, now the grievance of the petitioner is that, the respondent since have taken a stand that the suspension cannot be revoked now, and the petitioner, admittedly, has been under suspension from 27.07.2019, in view of the provisions of the subsistence allowance act, the petitioner is entitled to get higher subsistence allowance on completion of 90 days suspension and the same since has not been paid, the petitioner has given a representation and those representations have been given more than one occasion to reconsider his suspension order, the same has not been reconsidered. In view of the same, the learned counsel appearing for the petitioner would submit that, let the representations made by the petitioner in this regard be considered and if at all the respondents do not want to revoke the suspension order at this juncture, let them consider the request of the petitioner to pay the higher subsistence allowance as per the eligibility of the petitioner under the provisions of the Subsistence Allowance Act and if such gesture is shown by the respondents, the petitioner would be satisfied.

6. However, the learned Government Advocate appearing for the respondents would submit that with regard to the grave charge, the disciplinary proceedings has been initiated apart from criminal case, therefore it has become inevitable on the part of the respondents to retain the petitioner under suspension, accordingly, the suspension cannot be revoked at this juncture, and this has also been communicated to the petitioner on 12.02.2020. Insofar as the payment of subsistence allowance is concerned, the petitioner has been regularly paid the subsistence allowance and there is no arrears to that effect.

7. However, insofar as the request of the petitioner to pay the higher subsistence allowance as per the provisions of the Act, it would be considered by the respondents on merits and in accordance with law and accordingly, necessary orders would be passed within a time frame, only to that effect, he contented.

8. Considering the said submissions made by the learned counsel appearing for both sides and having perused the materials placed before this Court, this Court is inclined to dispose of this writ petition with the following orders:-

"that the respondents, especially, the third respondent is hereby directed to consider the request of the petitioner with regard to his grievance that he has not been paid higher subsistence allowance beyond 50% as admittedly he has been under suspension from 27.07.2019 to 12.02.2020. In view of the provisions of the Subsistence Allowance Act,



and accordingly, pass necessary orders to that effect on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order."

9. With these directions, the writ petition is disposed of. No costs.

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Sd/-

Assistant Registrar (CSIII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note:

(i) In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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To

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Chennai-208.

2.The Assistant Director,
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Kanyakumari District-629 165.

+1 CC to M/s.D. SELVANAYAGAM, Advocate (SR-14056[F] dated 14/08/2020)

W.P. (MD)No.9203 of 2020
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KB(16.09.2020) 3P 5C