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W.A.(MD)No.1320 of 2018

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 04.12.2020

CORAM

**THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN**

**AND**

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

**W.A. (MD)No.1320 of 2018**

Selvi

... Appellant/Petitioner

Vs.

1.The Director of Town Panchayat,  
Chepauk, Chennai.

2.The Assistant Director of Town Panchayat,  
Sivagangai Region,  
Sivagangai.

3.The District Collector,  
Virudhunagar District,  
Virudhunagar.

4.The Executive Officer,  
Sundarapandiam Town Panchayat,  
Virudhunagar District.

... Respondents/Respondents

Prayer : Appeal filed under Clause 15 Letters Patent against the order passed by this Court in M.P.(MD)No.1 of 2014 in W.P.(MD) No.10394 of 2013, dated 02.09.2014.

Prayer in MP(MD). 1/ 2014 in WP(MD).10394/2013 :

To clarify the order made by this Honourable court in WP. (MD).No.10394 of 2013 dated 10.02.2014.

Prayer in WP(MD). 10394/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of certiorarified mandamus or any other appropriate writ or order Or direction in the nature of a writ, calling for the records pertaining to the order of suspension passed by the 3rd Respondent in ROC NO. 138/2011 dated 15.04.2011 and consequently direct the 3rd Respondent to reinstate the petitioner with back wages payable to her with effect from 15.04.2011 to till the date of actual payment .

For Appellant : Mr.A.Rahul

For Respondents : Mrs.J.Padmavathi Devi  
Special Government Pleader



**JUDGMENT**

**(Judgment of the Court was delivered by N.KIRUBAKARAN, J)**

The Writ Appeal has been preferred by the appellant, aggrieved by the interim order passed by the learned Single Judge in M.P.(MD) No.1 of 2014 in W.P.(MD)No.10394 of 2013, dated 02.09.2014.

2. The learned Single Judge directed the fourth respondent to pay subsistence allowance from 15.06.2013 to 28.08.2014, on which date, the appellant was dismissed from service.

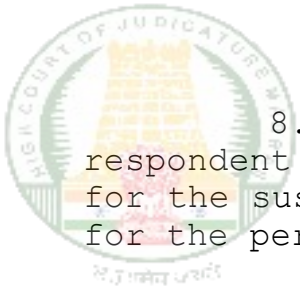
3. Heard the learned Counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents and perused the materials placed on record.

4. It is not in dispute that the appellant was serving under the fourth respondent. For unauthorised absence, the appellant was placed under suspension from 15.04.2011 and after enquiry, she was dismissed from service on 07.08.2014.

5. The main Writ Petition in W.P.(MD)No.10394 of 2013 was filed challenging the suspension order passed against the appellant and the said writ petition was disposed of on 10.02.2014 with a direction to conclude the disciplinary proceedings within a period of four months from the date of receipt of a copy of that order and in the meanwhile, subsistence allowance was directed to be paid.

6. When the subsistence allowance was not paid, a Contempt Petition in Cont.P.(MD)No.631 of 2014 was filed by the appellant and a clarification petition was also filed by the fourth respondent in M.P.(MD)No.1 of 2014 with regard to the payment of subsistence allowance. In that petition, the learned Single Judge directed the fourth respondent to pay subsistence allowance only from 15.06.2013 to 28.08.2014.

7. When it is admitted by both the parties that the appellant was suspended from service on 15.04.2011, naturally as per law, the appellant is entitled to get the subsistence allowance from 15.04.2011 to 28.08.2014 on which date she was dismissed from service. Therefore, the order passed by the learned Single Judge in M.P.(MD)No.1 of 2014 in W.P.(MD)No.10394 of 2013, dated 02.09.2014 is not sustainable.



8. Accordingly, the Writ Appeal is allowed. The fourth respondent is directed to pay subsistence allowance to the appellant for the suspension period, after deducting the subsistence allowance for the period for which it was already paid. No costs.

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Sd/-

Assistant Registrar (CS I)

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Sub Assistant Registrar(CS)

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To

1.The Director of Town Panchayat,  
Chepauk, Chennai.

2.The Assistant Director of Town Panchayat,  
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Sivagangai.

3.The District Collector,  
Virudhunagar District,  
Virudhunagar.

4.The Executive Officer,  
Sundarapandiam Town Panchayat,  
Virudhunagar District.

+1 CC to M/s.A.RAHUL, Advocate ( SR-24495[F] dated 08/12/2020 )

**W.A. (MD)No.1320 of 2018**

**04.12.2020**

PK (CO)

**KK(21.12.2020) 3P 6C**