



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.06.2021

CORAM

THE HON'BLE MR. JUSTICE S.S.SUNDAR

W.P.No.2562 of 2021

N.Rajendran @ Abdul Rahaman,
S/o.A.Naraynasamy

..Petitioner

Vs

1.State of Tamil Nadu,
Rep by its Home Secretary,
Home (Police-ii) Department,
The Secretariat, Chennai - 09.

2.The Director General of Police,
Dr.Radha Krishnan Salai,
Chennai - 04.

3.Central Bureau of Investigation (CBI),
No.26, Shastri Bhavan, 3rd Floor,
Haddows Road, Shastri Bhavan,
Chennai - 600 006.
[R3 suo-motu impleaded vide order
dated 23.03.2021 made in
W.P.No.2562 of 2021]

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents to disburse 75% of basic pay as subsistence allowance with effect from 27.09.2010 as even admitted in G.O.(D).No.584 dated 26.07.2013, pay all eligible terminal benefits such as unearned leave, medical leave, P.F. Contribution, gratuity and so on to the petitioner within time frame.

For Petitioner : Mr.K.Ravi Anantha Padmanaban

For RR1 & 2 : Mr.C.Kathiravan
Government Advocate

For R3 : Mr.C.Srinivasan



O R D E R
(Through video conferencing)

Mr.C.Kathiravan, learned Government Advocate appearing for the respondents 1 and 2 states that the subsistence allowance is paid to the petitioner. However, the learned counsel appearing for the petitioner states that though the subsistence allowance was paid till November 2015, it is due from December 2015 and that the petitioner is entitled to get subsistence allowance till the date of his superannuation which fell on 31.08.2016.

2.When it is admitted that the petitioner is entitled for subsistence allowance, there is no reason why the same could be denied for the period from December 2015 to 31.08.2016. The learned counsels appearing for the respondents have not given proper explanation for denying the same.

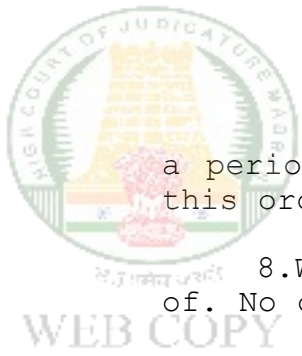
3.It is also stated by the learned counsel for the petitioner, that the petitioner's entitlement towards Provident Fund contribution and encashment of unearned leave cannot be denied. This Court does not find any satisfactory explanation for not making payment to the petitioner towards subsistence allowance from December 2015 to 31.08.2016, Provident Fund and amount towards unearned leave.

4.Though there is a statement in the Counter Affidavit that the petitioner has not stayed in the headquarters as it was directed while suspending the petitioner from service, the respondents have not produced any material to show that the petitioner had moved from headquarters before his retirement.

5.Whether the petitioner stayed within the headquarters or not is not relevant after his retirement.

6.Considering the facts admitted before this Court, this Court does not find any reason to deny the petitioner, the benefit of subsistence allowance from December 2015 to 31.08.2016 or the claim for unearned leave and Provident Fund contribution.

7.This Court's attention is drawn to a few precedents with regard to the entitlement of a Government servant towards unearned leave, Provident Fund contribution and subsistence allowance despite pendency of the disciplinary proceedings against the Government servant. Having regard to the facts admitted before this Court, this Court is inclined to dispose of this writ petition with a direction to the 1st respondent to make payment of subsistence allowance to the petitioner for the period from December 2015 to 31.08.2016 and the amounts payable by way of Provident Fund Contributions and unearned leave within



a period of eight weeks from the date of receipt of a copy of this order.

8. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssi

To

1. The Secretary,
State of Tamil Nadu,
Home (Police-ii) Department,
The Secretariat, Chennai - 09.
2. The Director General of Police,
Dr. Radha Krishnan Salai,
Chennai - 04.
3. Central Bureau of Investigation (CBI),
No. 26, Shastri Bhavan, 3rd Floor,
Haddows Road, Shastri Bhavan,
Chennai - 600 006.

+1cc to Mr. K. Ravi Anantha Padmanaban, Advocate (SR No. 29971)

+1cc to Government Pleader (SR No. 30261)

W.P.No. 2562 of 2021

PL (CO)
PR (26/07/2021)