



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.10.2021

CORAM

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR. JUSTICE A.A. NAKKIRAN

W.A. No. 2539 of 2021
&
C.M.P. No. 16523 of 2021

The General Secretary,
No.15-22C, Melony Road,
Parthasarathy Puram,
Post Graduate and Research Institution,
Dakshina Bharat Hindi Prachar Sabha,
T. Nagar, Chennai - 600 017.

..Appellant/Respondent

Vs.

C.S. Hosagoudar

..Respondent/Petitioner

Prayer: Writ Appeal as against the order dated 18.08.2021 passed in W.P. No. 17444 of 2020.

Prayer in W.P. No.17444 of 2020: Petition filed Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus Calling for the records to the Impugned order of suspension passed by the Respondent by his proceedings bearing KARYALAYA 2-8/2019-20/526 dated 20.2.2020 and quash the same and consequently direct the respondent to reinsate the Petitioner forthwith into service with all consequential benefits including monetary benefits.

For Appellant :: Mr.Su. Srinivasan

J U D G M E N T

(Judgment of the Court was delivered by S. VAIDYANATHAN,J.)

The present appeal has been filed challenging the order dated 18.08.2021 passed in W.P. No.17444 of 2020.

2.The respondent/employee filed the writ petition challenging the suspension order and for consequential reinstatement with monetary benefits.

3.This Court, by the impugned order dated 18.08.2021, disposed of the writ petition directing the appellant to pay subsistence allowance to the respondent herein, but did not order



reinstatement. Stating that the respondent had left the headquarters during the period of suspension without obtaining permission from the competent authority and went to his native place Dharwad, Karnataka, in violation of the suspension order, the present writ appeal has been filed by the appellant on the ground of suppression of material fact by the respondent before the learned Single Judge, resulting in an order for payment of subsistence allowance within a stipulated time.

4. According to the appellant, the writ petitioner left the headquarters without the permission of the competent authority and went to his native place Dharwad, Karnataka. Further, it is the submission of the learned counsel for the appellant that though the respondent had received subsistence allowance for the months of February, 2020 and March, 2020, the same was not brought to the notice of the learned Single Judge.

5. We are not inclined to go into these factual aspects. From the payment of salary made for February, 2020 and March, 2020, it is clear that subsistence allowance has been paid to the respondent. This Court has already passed an order as to how extension of subsistence allowance should be made. This Court has also held that in case an employee leaves the station, it is open to the employer to deprive him of subsistence allowance. Since this Court has directed that subsistence allowance has got to be paid, it does not mean that the employee is entitled to subsistence allowance, as a matter of right, if he is not going to be in station. This Court is not going into the disputed question of fact in this writ appeal and it is open to the employer to take steps if the employee is out of station. The learned Single Judge has passed an order directing payment of subsistence allowance within a period of four weeks, which means that if the employee is going to confine to the terms of the suspension order, the benefits will be extended to him.

6. Hence, no further orders are required. The writ appeal stands dismissed. No costs. Connected C.M.P. is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

nv

W.A. No. 2539 of 2021

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