



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD) No.2881 of 2021

N.Hariharan

... Petitioner

Vs.

1. The Chief Engineer and Director,
Institute of Water Studies,
Hydrology & Quality Control,
Water Resource Department,
Public Works Department, Chennai-600 113.

2. The Executive Engineer,
Water Resource Department,
Public Works Department,
Quality Control Division,
Madurai-2.

3. The Assistant Executive Engineer,
Public Works Department,
Quality Control Division,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to issue the subsistence allowance which shall not exceed the amount of provisional pension and other benefits such as Earned Leave, General provident Fund, Special Provident Fund, Leave on Private Affairs and Family Health Fund already accrued which cannot be retained by the respondents by citing the pendency of departmental proceedings and the same to be disbursed to the petitioner for his survival according to the fundamental rules 53(a)(i) within a short date that may be fixed by this Court.

For Petitioner

: Mr.K.Abiya

For Respondents

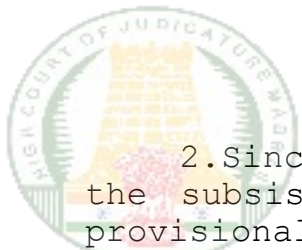
: Mr.M.Muniyasamy

Additional Government Pleader

O R D E R

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

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2. Since the petitioner's request to the respondents to issue the subsistence allowance, which shall not exceed the amount of provisional pension and other benefits such as Earned Leave, General provident Fund, Special Provident Fund, Leave on Private Affairs and Family Health Fund, already accrued which cannot be retained by the respondents by citing the pendency of departmental proceedings and the same to be disbursed to him for his survival according to the Fundamental Rules 53(a)(i), was not considered, the Writ Petition has been filed. According to the petitioner, he has made the representations in this regard on 01.12.2020 and 01.01.2021, which are still pending.

3. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct them to consider the same within a stipulated time.

4. In the light of the above observations, it would be appropriate to direct the second respondent herein to consider the petitioner's representations dated 01.12.2020 and 01.01.2021, within a stipulated time and thereby the ends of justice could be secured. It is made clear that this Court has not expressed any of its view with regard to the merits of the claim of the petitioner and that it is open to the concerned respondent to consider the same on its own merits.

5. Accordingly, there shall be a direction to the second respondent to consider the petitioner's representations dated 01.12.2020 and 01.01.2021, on its own merits and pass appropriate orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition stands disposed of. No costs.

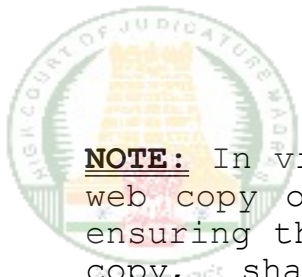
Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar



NOTE: 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.

WEB COPY

To

1. The Chief Engineer and Director,
Institute of Water Studies, Hydrology & Quality Control,
Water Resource Department,
Public Works Department,
Chennai-600 113.
2. The Executive Engineer,
Water Resource Department,
Public Works Department,
Quality Control Division,
Madurai-2.
3. The Assistant Executive Engineer,
Public Works Department,
Quality Control Division,
Sivagangai District.

+1 CC to M/s.K.ABIYA, Advocate (SR-5580[F] dated 17/02/2021)

+1CC to THE SPECIAL GOVERNMENT PLEADER (SR-6008[F] dated 18/02/2021)

Order made in
WP(MD)No.2881 of 2021
16.02.2021

CP

SRS/01.03.2021/3P/6C