



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.09.2021

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P (MD) No.17702 of 2021

P.Sundar

... Petitioner

Vs.

1.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Virudhunagar District.

2.The District Educational Officer,
O/o. the District Educational Officer,
Mani Nagar, Sivakasi,
Virudhunagar District.

3.The Nadar George High School,
Rep. by the Secretary,
Thayilpatti, Sivakasi,
Virudhunagar District - 625 128.

4.The Head Master,
The Nadar George High School,
Thayilpatti, Sivakasi,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent no.2 to disburse the Subsistence Allowance at the rate of 75% to the petitioner for the Suspension period from 01.04.2019 to 20.02.2020 in light of order passed by the Respondent No.2 in Na.Ka. No.1956/A3/2018 dated 13.02.2020 by appointing Special Officer on behalf of the Respondent No.3 and direct the Respondent No.3 & 4 to make entry of the Petitioner's reinstatement of service dated 21.02.2020 in his Service Register Book by considering the representation made by the Petitioner dated 11.09.2021 within the time frame as stipulated by this Court.

For Petitioner : Mr.I.Pinaygash

For Respondents : Mr.A.K.Manikkam,
Standing Counsel for State.



ORDER

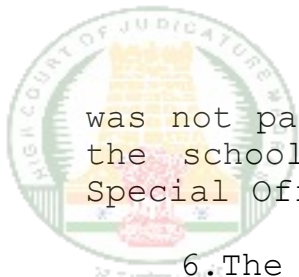
This Writ Petition has been filed seeking for issuance of a Writ of directing the respondent no.2 to disburse the subsistence allowance at the rate of 75% to the petitioner for the suspension period from 01.04.2019 to 20.02.2020 in the light of order passed by the respondent no.2 in Na.Ka. No.1956/A3/2018 dated 13.02.2020 by appointing Special Officer on behalf of the respondent no.3 and direct the respondent nos.3 & 4 to make entry of the petitioner's reinstatement of service dated 21.02.2020 in his Service Register Book by considering the representation made by the petitioner dated 11.09.2021 within the time frame as stipulated by this Court.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

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

4. According to the petitioner, he joined as Junior B.T.Assistant in the 3rd respondent school on 02.04.2004 and on 01.06.2006, he was regularised as B.T.Assistant. While so, on 13.09.2018, the petitioner was placed under suspension by the 3rd respondent since he was involved in a criminal case registered in Crime No.2 of 2018 under Sections 120(b), 406 and 420 IPC. Though this Court vide order dated 13.08.2019 in W.P.(MD) No.8059 of 2019 revoked the suspension and ordered reinstatement, but the respondents had not complied with, which prompted the petitioner to move Contempt Petition No.1386 of 2019 and pursuant to the order of this Court, he was reinstated on 21.02.2020. Since he was not paid subsistence allowance at the rate of 75% for the period between 01.04.2019 and 20.02.2020, the petitioner made a representation dated 11.12.2019 to the 2nd respondent, who in turn, passed order dated 13.11.2019, directing the respondents 3 and 4 to disburse the 75% subsisting allowance to him for the said period. However, on verification, on 10.03.2021, the 2nd respondent returned the application and directed the petitioner to apply through proper channel from the respondent No.4, which the petitioner complied with. But the 2nd respondent again returned his application on the ground that the present Secretary of the school had resigned and his application will be considered after appointment of new Secretary to the School. The grievance of the petitioner is that till now, the petitioner was not paid subsistence allowance and hence, he made a representation on 13.09.2021. Since no action is forthcoming, the petitioner has filed the present Writ Petition.

5. The learned counsel appearing for the petitioner would submit that consequent to the revocation of the suspension, the petitioner is entitled to the subsistence allowance as per Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981, but the same



was not paid on the pretext of non-availability of the Secretary to the school and the respondent No.2 is empowered to appoint any Special Officer for this purpose.

6.The learned Standing counsel for the respondents would submit that the representation of the petitioner would be considered if it is otherwise in order and appropriate orders would be passed in accordance with law.

7.Considering the submissions made by the learned counsel for the parties, this Court, without going into the merits of the Writ Petition, directs the respondents to consider the representation of the petitioner dated 11.09.2011 and pass appropriate orders in accordance with law, within a period of 8 weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dn

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.

To

- 1.The Chief Educational Officer,
O/o. the Chief Educational Officer,
Virudhunagar District.
- 2.The District Educational Officer,
O/o. the District Educational Officer,
Mani Nagar, Sivakasi,
Virudhunagar District.
- 3.The Secretary,
The Nadar George High School,
Thayilpatti, Sivakasi,
Virudhunagar District - 625 128.



4.The Head Master,
The Nadar George High School,
Thayilpatti, Sivakasi,
Virudhunagar District.

+1 CC to M/s.SPL.GP (SR-30875[F] dated 01/10/2021)

W.P (MD) No.17702 of 2021
29.09.2021

MGJ(08.10.2021) 4P 6C