



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.2650 OF 2012

A.Geetha

... Petitioner

Vs.

1. The Collector,
Vellore, Vellore District.
2. The Block Development Officer,
(Village Panchayat),
Arcot, Vellore District.
3. The President,
Veppur Panchayat, Arcot Panchayat Union,
Vellore District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent in Na.Ka.No.A3/1140/10 dated 11.05.2011 and quash the same and direct the respondents to consider the petitioner for appointment on compassionate grounds in any suitable post commensurate with her qualifications and grant her family pension, disbursement of the terminal benefits, subsistence allowance for the period of suspension, namely, 02.05.2007 to 26.01.2011 due to the petitioner's husband late Mr.V.Saravanalingababu who was working as Panchayat Assistant in Veppur Panchayat, Arcot Panchayat Union with interest.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.C.Selvaraj [R1 & R2]
Additional Government Pleader
Mr.E.Veda Bagath Singh [R3]
Special Government Pleader



ORDER

The petitioner's husband namely V.Saravanningababu, while serving as Panchayat Assistant in the third respondent/Panchayat Union, was placed under suspension on 02.05.2007 in contemplation of certain charges leveled against him through a charge memo dated 04.05.2007. Pending the departmental enquiry, the employee died on 26.01.2011. The petitioner, who is the widow of the employee, gave a representation in the month of March, 2011, seeking for compassionate appointment as well as for the subsistence allowance payable to her husband from 02.05.2007 till 26.01.2011. Through the impugned order dated 11.05.2011, her request was rejected stating that there were no rules governing the Panchayat Union for payment of subsistence allowance and that if she submits the death certificate and legal heirship certificate of her husband, further proceedings would be initiated. Aggrieved against the said order, the present writ petition has been filed.

2. I am not in agreement with the reasoning adopted by the respondents in denying the subsistence allowance payable to the petitioner's late husband. Even assuming that there were no Rules governing the Panchayat Union for payment of subsistence allowance to a suspended employee, the Fundamental Rules 53(1) of the Tamil Nadu Government provides that a Government servant who is placed or deemed to have been placed or continues to be under suspension shall be entitled for receiving subsistence allowance at an amount equal to half of this last drawn pay and in addition dearness allowance, if admissible on the basis of half of the last drawn pay. When the period of suspension exceeds six months, the subsistence allowance would also be increased by a suitable amount. This Fundamental Rule would be applicable to the employees of the Panchayat Union and therefore, the stand taken by the respondents that they are not liable to pay a subsistence allowance in the absence of any Rules governing the Panchayat Union, is baseless. Thus, the petitioner herein, would be entitled for subsistence allowance for the entire period of her suspension between 02.05.2007 and 26.01.2011 in accordance with the Rule FR 53(1).

3. Insofar as the petitioner's claim for compassionate appointment is concerned, the impugned order has not rejected her claim but only sought for production of certain documents including the death certificate and legal heirship certificate of late V.Saravanningababu. Hence, it would be appropriate to grant liberty to the petitioner to produce the required certificates to substantiate her claim for compassionate appointment.



4. In the light of the above observation, there shall be a direction to the third respondent herein, to forthwith pay the subsistence allowance payable to the petitioner's husband between 02.05.2007 and 26.01.2011, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is at liberty to supply the copies of the death certificate and legal heirship certificate in support of her representation given in the month of March, 2011, seeking for compassionate appointment for herself, together with a copy of this order and on receipt of such a representation, the third respondent herein, shall pass appropriate orders granting compassionate appointment to the petitioner, within a period of twelve weeks from the date of receipt of such document.

In the result, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Collector,
Vellore, Vellore District.
2. The Block Development Officer,
(Village Panchayat),
Arcot, Vellore District.
3. The President,
Veppur Panchayat, Arcot Panchayat Union,
Vellore District.

+1cc to M/s.P.Rajendran, Advocate, S.R.No.12991

+1cc to the Government Pleader, S.R.No.13387

W.P.No.2650 of 2012

AJB (CO)

RLP (23/03/2022)