



W.P.No.32487 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.32487 of 2014

Jagadeesan

...Petitioner

Vs

The Collector,
O/o. The Collectorate,
Vellore District.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for records from the file of the respondent and to quash the impugned order Na.Ka.No. 1202/2013/BG1 dated 25.09.2013 and consequentially directing the respondent to pay the subsistence allowance for the suspended period of 4½ months and further to transfer the petitioner to Alankuppam Village Panchayat Middle School, Madahoor Village Panchayat Union, Vellore District.

For Petitioner : Mr.D.Thirumoorthy

For Respondent : Mr.Baladhandayutham,
Special Government Pleader



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ORDER

WEB COPY Heard Mr.D.Thirumoorthy, learned counsel for the petitioner and Mr.Baladhandayutham, learned Special Government Pleader appearing for the respondent.

2. Through an order dated 14.05.2013, the petitioner herein, who was employed as a Noon Meal Organizer at Alankuppam Village Panchayat Middle School, Madahoor Village Panchayat Union, Vellore District, was placed under suspension by the respondent herein. Subsequently, on 25.09.2013, the order of suspension came to be revoked and the petitioner was permitted to join duty. The petitioner now seeks for payment of subsistence allowance for the period of his suspension between 14.05.2013 and 25.09.2013.

3. The consequential relief sought for in this Writ Petition is for a transfer to some other Middle School. It is stated that the petitioner has reached the age of superannuation and he was also permitted to retire on 31.07.2019 and hence, the consequential relief does not require consideration.



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4. Insofar as the payment of subsistence allowance is concerned, FR 53 of the Fundamental Rules of the Tamil Nadu Government provides that, when a Government servant is placed under suspension, he would be entitled for subsistence allowance at an amount equal to half of the pay last drawn by the Government servant and in addition dearness allowance, if admissible on the basis of half of the pay last drawn.

5. When the petitioner herein had sought for subsistence allowance for the suspension period, the same came to be rejected by the respondent, through the impugned order, stating that he is not eligible for the same on the basis of "No Work No Pay". Such a reasoning is alien to service jurisprudence. When the Fundamental Rule specifically provides for payment of subsistence allowance to the employees, who are kept under suspension for the subsistence of their livelihood, denying the same is opposed to the Rules and in view of such an illegal denial, the petitioner would be entitled to receive interest on the denied amount.

6. In the light of the above findings, the impugned order dated 25.09.2013 is quashed. Consequently, there shall be a direction to the



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respondent herein to pass appropriate orders, disbursing the subsistence allowance payable to the petitioner for the period between 14.05.2013 and 25.09.2013, together with interest at the rate of 6% per annum from 25.09.2013 onwards, till the date of actual disbursement. Such orders for disbursement of the monetary benefits shall be passed within a period of 4 weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition stands allowed. No costs.

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Index:Yes/No
Speaking order/Non-speaking order
hvk



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To

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O/o. The Collectorate,
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M.S.RAMESH,J.

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