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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.17673 of 2020

K.Megala

...Petitioner

Vs.

1. The Director of School Education,
DPI Campus, College Road,
Nungambakkam, Chennai - 06.
2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.
3. The District Educational Officer,
Thiruvallur District,
Thiruvallur.

...Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue writ of Mandamus directing the respondents 2 & 3 to enhance the subsistence allowance at the rate of 75% from May, 2020 onwards namely from the date of completion of six months as per the provisions of Fundamental Rule and to disburse the arrears within the stipulated time.

For Petitioner : Mr.S.Sivakumar

For Respondents: Mr.V.Manoharan
Additional Government Pleader

O R D E R

This petition has been filed to direct the respondents 2 & 3 to enhance the subsistence allowance at the rate of 75% from May, 2020 onwards namely from the date of completion of six months as per the provisions of Fundamental Rule and to disburse the arrears within the stipulated time.

2.Brief facts of the case:

The petitioner was appointed as a BT Assistant and subsequently promoted as a Post Graduate Teacher and thereafter

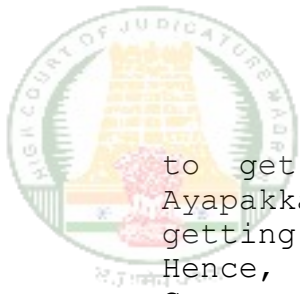


WEB COURT

promoted as Head Master. She is a disabled person with 60% injury since she met with an accident during the year 2003. While she was working as a Head Mistress in GHS, Thirupatchur, a case has been registered in Crime No.1735 of 2017 on the allegation that she has collected amount from various individuals for getting allotment in the Tamil Nadu Slum Clearance Board and thereby, the second respondent has initiated the departmental proceedings and placed her under suspension vide proceedings dated 11.11.2019 by invoking rule 17(e) of Tamil Nadu Civil Service (D & A) Rules for the past one year and also issued a charge memo dated 20.12.2019 under Rule 17(b) of TNCS (D&A) Rules. After receipt of the charge memo the petitioner has submitted her explanation dated 25.02.2020, but the second respondent has not satisfied with the same and appointed the enquiry officer viz., District Educational Officer, Thiruttani and the enquiry officer has directed the petitioner to appear on 17.07.2020 at 03.00 p.m., and the petitioner appeared and enquiry has been concluded on the same day and the enquiry report has been submitted to the second respondent, but the second respondent has not passed any order and did not paid the subsistence allowance. Hence, the petitioner made request to various authorities and thereafter, the second respondent has paid subsistence allowance at the rate of 50% of the last drawn wages for a period of first six months and thereafter, she is entitled for 75% as a subsistence allowance as per the fundamental rule, but still petitioner is receiving 50% of the wages only. Hence, she made a representation to the respondents, but the same is still pending.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not involved in any offence as alleged by the complainant and she was under prolonged suspension for the past one year. Further, there is no progress in the criminal case and the police has not even filed a charge sheet in the above case. Insofar as the departmental action is concerned the enquiry has been completed as early as July, 2020 but the respondent neither reinstated the petitioner into service nor passed any final order in the disciplinary proceedings so far and the same is pending. Further, he would submit that the petitioner is entitled to get 75% of subsistence allowance after the period of six months as per the fundamental rules.

4.The learned Additional Government Pleader appearing for the respondents would submit that the petitioner has issued a Government cheque for her own money transaction. It is treated as mis-conduct of Government funds for her own purpose and hence, as per Rule 17(b) of the Tamil Nadu Government Civil Services(Disciplinary and Appeal) Rules charges have been framed against her. Further, the petitioner has cheated various persons



to get allotment order in the newly constructed apartment Ayapakkam Colony, Ambathur in a lent fraud manner and for getting appointment order for the post of Laboratory Assistant. Hence, the act of the petitioner is against the Tamil Nadu Government Servant Conduct Rules and hence, the request of the petitioner to reinstate her into service could not be considered.

5. Heard the learned counsel on either side and perused the materials placed on records.

6. On a perusal of the facts of the case, it is seen that the issues are purely private in nature.

7. Considering the above facts and circumstances of the case, considering the submissions made by the learned respective counsels, this Court is inclined to pass the following order:

(i). The petitioner is directed to made a fresh application to the second respondent within a period of twelve weeks from the date of receipt of a copy of this order along with relevant records. On such representation received, the authority concerned shall consider the same and settle the arrears of the Subsistence Allowance to the petitioner at 75% within a period of twelve weeks thereafter.

(ii). Further, the second respondent is directed to consider for revocation of the prolonged suspension order, based on the representation submitted by the petitioner.

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

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Dua

To

1. The Director of School Education,
DPI Campus, College Road,
Nungambakkam,
Chennai - 06.



2. The Chief Educational Officer,
Thiruvallur District,
Thiruvallur.

3. The District Educational Officer,
Thiruvallur District,
Thiruvallur.

+2cc to M/s.S.Sivakumar, Advocate, S.R.No.20101

+1cc to the Government Pleader, S.R.No.20380

W.P.No.17673 of 2020

CNR(CO)
RGA(06/04/2022)