



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) No. 2323 of 2022

R.Manonmani

... Petitioner

-Vs-

1. The Commissioner of Municipal Administration,
Raja Annamalaipuram,
Urban Administrative Building,
Chennai - 600 028.

2. The Commissioner,
Madurai Corporation,
Aringar Anna Maaligai,
Madurai - 625 002.

... Respondents

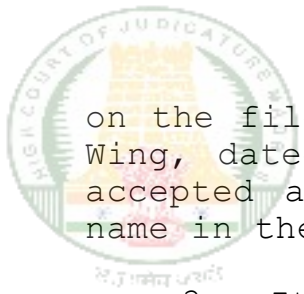
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to provide the arrears of subsistence allowance from the month of July 2021 to till date to the petitioner within the time period.

For Petitioner	: Mr.T.Lajapathi Roy
For Respondents	: Mr.S.Saji Bino
	Special Government Pleader for R1
	Ms.S.Devasena for R2

O R D E R

This Writ Petition has been filed to direct the respondents to provide the arrears of subsistence allowance from July 2021 to till date to the petitioner.

2. Learned counsel appearing for the petitioner would submit that the petitioner was appointed as a Community Organizer in the year 1999 and has rendered the services in several places. Presently, the petitioner is serving at Madurai City Municipal Corporation at Madurai. Under these circumstances, a criminal case came to be registered against the petitioner in Crime No.3 of 2014,



on the file of Virudhunagar District Vigilance and Anti-Corruption Wing, dated 26.03.2014, alleging that the petitioner demanded and accepted a sum of Rs.1500/- from one Jeevanandam to include his name in the Scheme, "Thaliku Thangam".

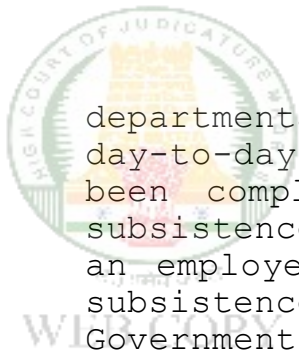
3. It is his further contention that pursuant to the registration of a criminal case, the petitioner was suspended from service vide proceedings dated 08.05.2015. Aggrieved over the same, the petitioner sent a detailed representation to the respondents 1 and 2, on 26.08.2016, requesting to revoke the suspension and to provide subsistence allowance. Since there was no response, the petitioner filed a Writ Petition in W.P. (MD) No. 17836 of 2016 and this Court directed the respondents for early conclusion of the departmental as well as criminal proceedings, so that the Government shall take a decision for payment of balance subsistence allowance. Despite such observation, the petitioner is not paid with subsistence allowance. Hence, the petitioner filed another Writ Petition in W.P. (MD) No. 2517 of 2020 and on 10.02.2020, this Court directed the respondents to consider the petitioner's representation dated 22.01.2020, within a period of four weeks. Since the said order has not been complied with, the petitioner sent a contempt notice on 10.06.2020.

4. Further, the learned counsel would submit that only after receipt of the contempt notice, the respondents have disbursed the subsistence allowance along with arrears upto May 2020. But, thereafter, no subsistence allowance is paid to the petitioner. Hence, the petitioner sent a detailed representation dated 06.03.2021 and since it was not considered, the petitioner filed a Writ Petition in W.P. (MD) No. 6175 of 2021 and this Court directed the respondents to consider the representation of the petitioner within a stipulated period. Pursuant to the order of this Court, the petitioner was paid with subsistence allowance from June 2020 to June 2021. Thereafter, once again from the month of July 2021, the subsistence allowance is not paid. Though the petitioner, in this regard, has sent a representation to the respondents, it has not been considered so far. Hence, the petitioner is before this court, once again, for the aforesaid relief.

5. This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

6. The grievance of the petitioner is that the petitioner has not been paid with subsistence allowance, inspite of specific direction from this Court. If the Department is not concluding the departmental disciplinary proceedings, they are liable to pay the subsistence allowance to the petitioner, as per the Fundamental Rules.

7. This Court by earlier order in W.P. (MD) No. 17836 of 2016 <https://hscservices.courts.madras.gov.in/hscservices> gave certain directions to the respondents to conclude the



departmental disciplinary proceedings by conducting the enquiry on day-to-day basis. However, the departmental proceedings has not been completed and the petitioner was also not paid with the subsistence allowance. Prolonged suspension is bad in law. Keeping an employee under suspension for an indefinite period and paying subsistence allowance will also result financial loss to the Government. In such circumstances, the authorities are bound to frame charges and proceed with enquiry and conclude the same as expeditiously as possible. The pendency of the criminal case cannot be a bar for conducting the departmental proceedings. Even if any documents are required for the purpose of enquiry, the certified copy can be obtained from the Vigilance and Anti-corruption Department.

8. It is also brought to the notice of this Court that in the criminal case, trial is almost completed. Since the independent witnesses cited in the enquiry have already been examined by the Trial Court, the respondents shall proceed with the departmental proceedings and conclude the same within a period of eight weeks from the date of receipt of a copy of this order. In the meantime, the respondents shall pay the pending subsistence allowance to the petitioner and also continue to pay the eligible subsistence allowance till the completion of the departmental proceedings.

9. With these observations, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

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Sub Assistant Registrar (CS)

vji

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

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+1 CC to M/s.SPL.GP (SR-4558[F] dated 07/02/2022)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-4574[F] dated
07/02/2022)

**W.P (MD) No. 2323 of 2022
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SAR(CO)
PA(06.04.2022) 4P 5C