



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P(MD).No.2616 of 2022

WEB COPY

V.Kalyanakumar

... Petitioner

Vs.

1.The Chief Educational Officer,
Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.

3.The Secretary,
D.V.D Higher Secondary & Training School,
Kottar, Nagercoil, Kanyakumari District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to disburse forthwith the monthly salary payable to the petitioner from 01.09.2021 onwards.

For Petitioners : Mr.E.V.N.Siva

For R1 & R2 : Mr.G.V.Vairam Santhoseh
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to direct the respondents to disburse forthwith the monthly salary payable to the petitioner from 01.09.2021 onwards.

2.The petitioner states that he is working as an Office Assistant in D.V.D Higher Secondary and Training School, Kottar, which is a recognized private aided school. The petitioner states that he was implicated in a criminal case in Crime No.482 of 2021 and he was arrested and detained under the Judicial custody from 19.07.2021 onwards. Subsequently, he was released on bail by order dated 09.08.2021 in CrI.M.P.No.411 of 2021. During the said period, the petitioner had not attended duty. He submitted a leave application for the said period and thereafter, he submitted a join report and joined duty from 01.09.2021 onwards.

3.The learned counsel for the petitioner made a submission that the petitioner is facing a criminal case and as of now no



departmental disciplinary proceedings are initiated and he was permitted to join duty on 01.09.2021 and thus, he is entitled for salary for the period he worked.

4. Salary is the earned wages of an employee. Salary cannot be denied in the absence of any valid grounds. In the present case admittedly, the writ petitioner is facing a criminal proceedings. The initiation of departmental proceedings are no way connected with the earned wages for the period the writ petitioner served in the school. Therefore, the respondents have to pay the salary for the period he worked in the school. Admittedly, the petitioner was allowed to join duty on 01.09.2021 and therefore, he is entitled for salary. As far as the criminal case and departmental disciplinary proceedings are concerned, it is for the competent authority to take a decision and proceed in accordance with the rules in force.

5. In this view of the matter, the respondents are directed to disburse the salary to the petitioner with effect from 01.09.2021, the period during which, the petitioner served as an Office Assistant in the school. The said exercise is directed to be done within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Chief Educational Officer,
Kanyakumari District.

2. The District Educational Officer,
Nagercoil, Kanyakumari District.

+1 CC to M/s.E.V.N. SIVA, Advocate (SR-6341[F] dated 16/02/2022)

+1 CC to M/s.SPL GP (SR-6492[F] dated 16/02/2022)

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MGJ(03.03.2022) 2P 5C