



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3356 of 2020

and

W.M.P. (MD) No.2812 of 2020

Neelamegam

... Petitioner

vs.

1.The Director General of Police
Officer of the Director General of Police
Chennai-600 004

2.The Superintendent of Police
Office of the Superintendent of Police
Thanjavur

3.The District Treasury Officer
Office of the District Treasury Officer
Thanjavur

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records issued by the 2nd respondent in C.No.D2/ACR-31/2019, dated 30.05.2019 and also in C.No.M3/Pen.14/2018, dated 28.08.2019 and quash the same and consequently direct the respondents to disburse all retirement and other attendant monetary benefits to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.R.Sureshkumar
for M/s.Veera Associates

For Respondents : Mr.A.K.Manikkam
Special Government Pleader

O R D E R

The orders directing to recover the subsistence allowance already paid to the petitioner are under challenge in this writ petition.

2. The petitioner was appointed as Grade-II Police Constable. He was promoted upto the post of Head Constable and placed under suspension on initiation of departmental disciplinary proceedings. The departmental disciplinary proceedings initiated finally ended with punishment of compulsory retirement. Accordingly, the terminal and pensionary benefits, as applicable for compulsory retirement, had been settled in favour of the petitioner. The grievance of the petitioner is that the subsistence allowance paid during the period of suspension is sought to be recovered.



3. This Court is of the considered opinion that subsistence allowance is the livelihood, which was being paid when the employee was under suspension. Even if an order of punishment is imposed and the period of suspension is treated as punishment, then also, the subsistence allowance already paid cannot be recovered. In the present case, the period of suspension was regulated as leave eligible without salary. Thus, the salary for the suspension period need not be paid. But, the subsistence allowance paid cannot be recovered. In the event of recovering the subsistence allowance already paid, the very purpose and object of the subsistence allowance will be defeated and furthermore, the payment of subsistence allowance is the livelihood of the employee, who is placed under suspension. These being the basic principles, the respondents have committed an error by passing an order of recovery of subsistence allowance already paid to the petitioner, when he was undergoing the period of suspension.

4. In view of the facts and circumstances of the case, the writ petition is allowed and the orders dated 30.05.2019 and 28.08.2019, passed by the second respondent, are quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To:

1.The Director General of Police,
Officer of the Director General of Police, Chennai-600 004.

2.The Superintendent of Police,
Office of the Superintendent of Police, Thanjavur.

3.The District Treasury Officer,
Office of the District Treasury Officer, Thanjavur.

+1 CC to M/s.VEERA ASSOCIATES, Advocate (SR-16413[F] dated 04/04/2022)

+1 CC to M/s.SPL.GP (SR-16749[F] dated 05/04/2022)

W.P. (MD) No.3356 of 2020

and

W.M.P. (MD) No.2812 of 2020

Date:04.04.2022

SA(12.04.2022) 2P 6C

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