



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 17.03.2022

Pronounced on : 08.04.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No.4620 of 2022

WEB COPY

K.Esakkimuthu

... Petitioner

vs.

1.The Chief Educational Officer,
Tirunelveli District, Tirunelveli.

2.The District Educational Officer,
Office of District Educational Office,
Valliyur, Tirunelveli District

3.The Block Educational Officer,
Kalakadu Union, Tirunelveli District. ... Respondents

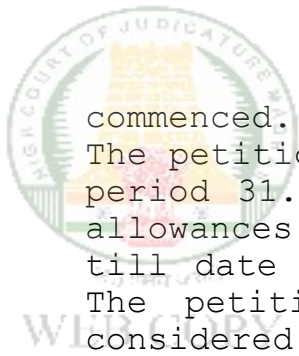
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the respondents to disburse the subsistence allowance to the petitioner for the period from December 2021 to till date and also revised his subsistence allowance upto 75% from the period of December 2018 based on his representations, dated 20.10.2021, 24.01.2022 and 02.03.2022, within the time limit that may be stipulated by this Court.

For Petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, to direct the respondents to disburse the subsistence allowance to the petitioner for the period from December 2021 to till date and also revised his subsistence allowance upto 75% from the period of December 2018 based on his representations, dated 20.10.2021, 24.01.2022 and 02.03.2022, within the time limit that may be stipulated by this Court.

2. The brief facts of the case are that the petitioner was appointed as Secondary Grade Teacher and promoted as Tamil Pandit, then, Headmaster and then promoted as Assistant Elementary Educational Officer in Kalakkadu Union. Now redesignated as Block Educational Officer. On 31.05.2018, the Director of Elementary Education Officer has suspended the petitioner from service on the ground that a criminal case in Crime No.2 of 2018 was filed for offences under Section 7 of the Prevention of Corruption Act, 1988. The charge sheet has been filed but as on date trial has not



commenced. The petitioner was placed under suspension on 31.05.2018. The petitioner was eligible to 50% of subsistence allowance from the period 31.05.2018. Thereafter, the third respondent disbursed the allowances continuously till November 2021. From December 2021 to till date the respondents have not paid the subsistence allowance. The petitioner submitted representations, but the same was not considered.

3. In the meanwhile, the petitioner submitted a representation, dated 11.11.2019, requesting the respondents to revoke the suspension order. The petitioner was placed under prolonged suspension from the period of 31.05.2018, which is more than four and half years, which is against the principles of natural justice. In the meanwhile, the petitioner submitted a representation to the respondents on 20.10.2021, to revise the subsistence allowances up to 75% as per the Fundamental Rules 53 (i) from the period of 30.11.2018. Since the same was not considered, the present Writ Petition is filed.

4. The Writ Petition came up for admission. Since it is the claim of subsistence allowance, this Court without counter has heard the Writ Petition with the consent of the parties.

5. Admittedly, the petitioner was placed under suspension, vide proceedings, dated 31.05.2018, with effect from 31.05.2018. The contention of the petitioner is that the respondents have paid the subsistence allowance until November 2021. Thereafter, has not paid the amount and in spite of several representations, the respondents have not paid the same. The petitioner submitted that in the criminal case, charge sheet has been filed but trial has not been commenced.

6. Therefore, this Court is of the considered opinion that the petitioner is eligible for subsistence allowance. There is no delay on the part of the delinquent in conducting the enquiry and if so then the delinquent is eligible for increase in subsistence allowance. In the present case, the Criminal Court has not yet started the trial and it is not the mistake of the petitioner. Therefore, the petitioner is entitled to 75% as per Fundamental Rule 53 Sub Clause (i). Therefore, this Court is directing the respondents to grant the subsistence allowance to the tune of 75%. Therefore, the respondents are directed pay 75% of subsistence allowance and the said exercise shall be carried out within a period of four weeks from the date of receipt of a copy of this order.

7. The petitioner submitted before this Court that the suspension is a prolonged suspension and the same also may be considered for revocation. On perusal of the prayer, it is seen that the petitioner has filed this Writ Petition to disburse the subsistence allowance alone. The petitioner is at liberty to submit



order on the said representation. Thereafter, the petitioner is at liberty to challenge the same.

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

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

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

1. The Chief Educational Officer,
Tirunelveli District, Tirunelveli.
2. The District Educational Officer,
Office of District Educational Office,
Valliyur, Tirunelveli District
3. The Block Educational Officer,
Kalakadu Union, Tirunelveli District.

+1 CC to M/s.SPL.GP (SR-17955[F] dated 11/04/2022)

Order made in
W.P. (MD)No.4620 of 2022
08.04.2022

SS (CO)
GC (05.05.2022) 3P 5C