



W.P(MD)No.7673 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.10.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7673 of 2021

and

W.M.P.(MD)No.5828 of 2021

M.Stephen Sahayaprasad

... Petitioner

Vs.

1.The Commissioner,
Directorate of Technical Education,
53, Sardar Patel Rd,
Guindy,
Chennai-625 025.

2.Kamaraj Polytechnic College,
Rep. by its Correspondent,
Palavilai,
Kanyakumari District.

3.The Principal,
Kamaraj Polytechnic College,
Palavilai,
Kanyakumari District.

4.The Secretary to Government,
Higher Education Department,
Chennai.

(4th respondent is suo motu impleaded by this Court
vide order dated 10.10.2022)

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to disburse arrears of subsistence allowance to the petitioner as per proviso to FR. 53(1)(a)(iii) along with dearness allowance as per G.O.Ms.No.207 P & AR (FR.III) Department dated 08.05.1996 for the period from August 2019 to March 2021 and with interest at 12% per annum, within a time limit to be fixed by this Court and also to pay future subsistence allowance on the last date of future months from April 2021 onwards.

For Petitioner : Mr.A.Thirumurthy

For R1 : Mr.S.Shaji Bino
Special Government Pleader

For R2 & R3 : Mr.N.Dilip Kumar

ORDER

Heard the learned counsel on either side.

2. The basic facts are not in dispute. The writ petitioner was employed as Principal-in-charge in Kamaraj Polytechnic College, Palavilai, Kanyakumari District. It is an aided institution. The writ petitioner was suspended from service way back in the year 2013. Charge memo was also issued on 21.10.2013. The petitioner reached the age of superannuation on 31.05.2018. The petitioner had received subsistence allowance till he attained the age of superannuation. It is fairly admitted that the petitioner received the amount



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equivalent to the subsistence allowance till July 2019. But for the last three years and more, he has not been paid any amount. It is well settled that a person who has not been allowed to retire is entitled to receive provisional pension. In this case, the petitioner has not received provisional pension since August 2019.

3. The second respondent is directed to submit a proposal to the first respondent regarding payment of provisional pension to the writ petitioner. The first respondent shall process the same and forward it to the fourth respondent / Government. In any event, the arrears of the provisional pension payable to the writ petitioner shall be paid within a period of twelve weeks from the date of receipt of a copy of this order. This direction to pay provisional pension to the petitioner will continue to be in force till the final orders are passed on the disciplinary action initiated against the petitioner.

4. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petition is closed.

10.10.2022

Index : Yes / No

Internet : Yes/ No

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NOTE: Issue Order Copy on 13.10.2022



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G.R.SWAMINATHAN, J.

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