



WP(MD)No.12305 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **12.08.2022**

CORAM:

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

W.P.(MD)No.12305 of 2022

D.A.Armstrong

... Petitioner

/vs./

1.The District Collector,
O/o. The District Collector,
Virudhunagar District,
Virudhuangar.

2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Sivakasi,
Virudhunagar District.

3.The Tahsildar,
Sivakasi,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to provide 75 percent of subsistence allowance to the petitioner from 22.11.2019 to till the revocation of suspension by considering the petitioner's representation dated 01.09.2020 with the consequential benefits within the time stipulated by this Court.



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For Petitioner : Mr.T.Thirumurugan
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The petitioner herein was placed under suspension by the respondents on 22.05.2019 and still continues to be under suspension.

2.Under FR 53(1)(a) of the Fundamental Rules of the Tamil Nadu Government [hereinafter referred to as the “Rules” for brevity], a Government Servant, who is placed under suspension shall be entitled for receiving subsistence allowance at an amount equal to half of the pay last drawn pay by him and in addition dearness allowance and incase where the period of suspension exceeds six months, subsistence allowance shall be increased.

3.FR 53(1) of the Rules reads as follows:

“F.R. 53. (1) A Government servant who is placed or deemed to have or continues to be under suspension shall be entitled to the following payments, namely:-

(a) Subsistence allowance at an amount equal to half of the pay last drawn by the Government servant and in addition dearness allowance, if admissible on the basis of half of been



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placed the pay last drawn:

(G.O. Ms. No. 180, P & A.R. Department, dated 4th March 1983.)

Provided that where the period of suspension exceeds six months, the authority which made or is deemed to have made, the order of suspension shall be competent to vary the amount of subsistence allowance for any period subsequent to the period of the first six months as follows:-

(i) The amount of subsistence allowance may be increased by a suitable amount, not exceeding fifty per cent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant;

(ii) the amount of subsistence allowance may be reduced by a suitable amount, not exceeding fifty per cent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, directly attributable to the Government servant;

(iii) the amount of dearness allowance shall be based on the increase or the decrease in the amount of subsistence allowance, as the case may be, admissible under clause (i) or (ii) above:”



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4.The petitioner's claim for enhanced subsistence allowance has been kept pending without consideration, which insisted him to file this writ petition. Since the petitioner is under suspension for more than six months, he would be entitled for enhanced subsistence allowance, as per FR 53(1) of the Rules, as extracted above.

5.In the light of this finding, there shall be a direction to the respondents 1 and 2 to consider the petitioner's representation dated 01.09.2020 seeking for enhanced compensation and pass appropriate orders, for payment of enhanced compensation, in accordance with FR 53(1) of the Rules, together with arrears of such subsistence allowance, within a period of two (2) weeks from the date of receipt of a copy of this order. This Writ Petition is allowed accordingly. There shall be no order as to costs.

12.08.2022

Index : Yes / No
Internet : Yes / No
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M.S.RAMESH, J.

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Dated:
12.08.2022