



WP(MD)No.14818 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

W.P.(MD)No.14818 of 2022
and
W.M.P.(MD) No.10599 of 2022

S.Sundramoorthi

... Petitioner

Vs.

1.The Commissioner of School Education

Madurai Municipal Corporation,

Anna Maligai,

Alagar Koil Road,

Madurai - 625 002.

2.The Assistant Commissioner,

Madurai Municipal Corporation,

4th Zone,

Madurai.

Madurai District.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to grant petitioner subsisting allowances till the end of enquiry in k/ep 4/019211/17 dated 20.07.2017 on the file of the first respondent by considering his written statement dated 07.12.2017 in accordance with law.

For Petitioner : Mr.R.Rajaselvan
for Mr.R.Sethuraman
For Respondents : Mrs.S.Devasena,
Standing Counsel

ORDER

This writ petition has been filed seeking a writ of Mandamus to direct the respondents to grant petitioner subsisting allowance till the end of enquiry in k/ep 4/019211/17 dated 20.07.2017, on the file of the first respondent by considering his written statement, dated 07.12.2017 in accordance with law.



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2. The learned counsel for the petitioner submitted that the petitioner was suspended vide proceedings of the first respondent k/ep 4/019211/17, dated 20.07.2017, on the basis of alleged criminal misappropriation of funds. The suspension order specifically reads that the petitioner is entitled for payment of subsistence allowance under Rule 17(e) of Tamil Nadu Civil Service (Disciplinary and Appeal Rules). However, the petitioner is not paid with the subsistence allowance from the date of suspension. Even on 07.12.2017, the petitioner gave a written statement informing about the payment of Rs.7,30,625/- (Rupees Seven Lakhs Thirty Thousand Six Hundred and Twenty Five only) and requesting him to pay subsistence allowance. Even after completion of five years from the date of his suspension, the departmental enquiry is not over. He is not paid with the subsistence allowance, till date. Therefore, this writ petition has been filed.

3. Mrs.S.Devasena,, learned Standing Counsel takes notice on behalf of the respondents and prays time to get instructions.



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4. The scope of this writ petition is very limited, to the effect that the payment of subsistence allowance by considering his written statement, dated 07.12.2017 and representation, dated 31.12.2020 in accordance with law.

5. As rightly pointed out by the learned counsel for the petitioner, the suspension order, dated 20.07.2017 specifically reads that the petitioner is entitled to get subsistence allowance as per Rule 17(e) of Tamil Nadu Civil Service (Disciplinary and Appeal Rules). It is strange that the petitioner has not been paid with the subsistence allowance from the date of suspension, till today.

6. Therefore, this Court directs the respondents to consider the petitioner's written statement, dated 07.12.2017 and representation, dated 31.12.2020, and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. The oral enquiry is pending for more than five years. The respondents are directed to complete the enquiry at the earliest possible, preferably, within a period of three months from the date of receipt of a copy of this order.



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7. With the above directions, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
RM

To:

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2.The Assistant Commissioner,
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G.CHANDRASEKHARAN, J.

RM

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