



W.P(MD)No.22849 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22849 of 2022

V.Sakthivel

... Petitioner

Vs.

1.The Agricultural Production Commissioner,
The Secretary to Government,
Agricultural Department,
St.George Fort, Chennai-9.

2.The Chief Engineer,
Agricultural Engineering Department,
Nandanam, Chennai-35.

3.The Executive Engineer,
Fact Finding Authority,
Agricultural Engineering Department,
Madurai.

4.The Superintendent Engineer,
Inquiry Officer,
Agricultural Engineering Department,
Tirunelveli.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay the subsistence allowance 25 percent arrears from 1.03.2013 to 18.08.2020 together with interest of 18 percent within the time limit stipulated by this Court.



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For Petitioner : Mr.D.Selvanayagam

For Respondents : Mr.A.K.Manikkam,
Spl. Government Pleader.

ORDER

Heard the learned counsel on either side.

2.The petitioner was appointed as Assistant Engineer having been selected through TNPSC on 25.02.1985. He became an Assistant Executive Engineer in Agricultural Engineering Department in the year 2004. He reached the age of superannuation on 31.08.2012. On the said date, he was suspended from service and not allowed to retire. Enquiry was conducted and he was dismissed from service on 18.07.2020. Questioning the same, the writ petitioner had filed W.P.(MD)No.11420 of 2020 and the same is still pending.

3.The contention of the petitioner is that he was paid only 50% of the subsistence allowance and it ought to have been enhanced to 75% after the expiry of the period of six months from the date of original suspension order. Seeking payment of the said amount with interest, the present writ petition has been filed.



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3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4.I am not persuaded by the submissions advanced by the learned counsel for the writ petitioner. As rightly pointed out by the learned Special Government Pleader, the writ petitioner was suspended only on the last day of his service. He was not allowed to retire. He continued to be under suspension. He was eventually dismissed from service in the year 2020. My attention is drawn to Fundamental Rules 53(1)(a)(iii) proviso. It states that if a Government servant under suspension continues to be under suspension after the date of retirement, the amount of subsistence allowance shall be reduced to the amount of pension which will be provisionally admissible to him, whether or not the Government servant will be exonerated of the charges for which he was placed under suspension and the provisions of the preceding proviso shall not apply to such cases. If the petitioner had not reached the age of superannuation and he was under suspension, 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



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been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant. In this case, the petitioner was suspended only on the last date of his service. Therefore, the question of enhancing the subsistence allowance payable to him thereafter will not arise at all. The stand taken by the respondents is sustained and the writ petition stands dismissed. No costs.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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