



W.P(MD)No.22894 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.22894 of 2019

Vanithai

... Petitioner

Vs.

1.The Commissioner of Municipal Administration,
Ezhilagam,
Chepauk,
Chennai.

2.The Assistant Director of Town Panchayat,
Theni District,
Theni.

3.The District Collector,
Theni District,
Theni.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent to disburse the arrears of subsistence allowance due for the period from 01/08/2018 to 13/09/2019 to the petitioner.

For Petitioner : Mr.V.Angusamy

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader



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ORDER

Heard the learned counsel on either side.

2. The writ petitioner was working as Junior Engineer in Uthamapalayam Town Panchayat. She was implicated in a trap case on 13.02.2009. She was therefore suspended with effect from 17.02.2009. The criminal case against the writ petitioner ended in conviction on 30.08.2018. However, she was dismissed from service only on 13.09.2019. The petitioner's counsel states that the petitioner was not paid any subsistence allowance from 01.08.2018 till 13.09.2019.

3. The learned Additional Government Pleader appearing for the respondents submitted that on 30.08.2018 itself, the petitioner was convicted and sentenced for the offence under the Prevention of Corruption Act, 1988 and that therefore, she cannot claim any subsistence allowance for the period subsequent to 30.08.2018.

4. There is one technical difficulty for the respondents. The dismissal order cannot be backdated. The competent authority passed the dismissal order only on 13.09.2019. Till then, the employer – employee relationship very much



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subsisted. I can take judicial notice of the fact that in some of the cases where IAS officers suffered conviction, they were not visited with any dismissal order immediately. Of-course, the convicted employee has no right to be continued in service. This is all the more so in vigilance cases. In this case, the competent authority did not pass the dismissal order immediately. Till the dismissal order was passed, the petitioner was entitled to be paid the subsistence allowance.

5. I therefore direct the respondents to disburse arrears of subsistence allowance due to the petitioner for the period from 01.08.2018 to 13.09.2019. This will be disbursed within a period of eight weeks from the date of receipt of a copy of this order.

6. The Writ Petition is allowed. No costs.

15.11.2022

Index : Yes / No
Internet : Yes/ No
rmi

G.R.SWAMINATHAN, J.



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WEB COPY

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