



W.P(MD)No.25597 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25597 of 2022

D.Panneerselvam

... Petitioner

Vs

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Block Development Officer,
Bogalur Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent i.e., The District Collector, Ramanathapuram in his Memo No.R.C.V2/34699/2022 dated 21.07.2022 and quash the same and consequently, direct the first respondent i.e., The District Collector, Ramanathapuram to sanction enhancement of subsistence allowance to the petitioner right from the date of expiry of 6 months of suspension as per the specific provision contained under Rule 53(1)(i) of the Fundamental Rules within a time frame fixed by this Court.



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For Petitioner : Mr.S.Visvalingam

For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader for R.1

Mr.M.Prakash
Additional Government Pleader for R.2

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is holding the rank of Deputy Block Development Officer. He was suspended from service vide order dated 25.06.2018. The petitioner seeks revision and enhancement of subsistence allowance payable to him from the date of expiry of six months after suspension period was passed. He made a request in this regard on 31.10.2019. Since it was not considered, he filed W.P.(MD)No.12198 of 2022. Vide order dated 17.06.2022, direction was given for passing order on the petitioner's request. Pursuant to the direction, the impugned memorandum dated 21.07.2022 has been issued rejecting the petitioner's request. Questioning the same, the present writ petitioner has been filed.

3. The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He drew



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my attention to the catena of orders enclosed in the typed set of papers. He placed particular reliance on FR 53(1)(a)(i). He pressed for setting aside the impugned order and granting relief as prayed for.

4. Per contra, the learned Additional Government Pleader appearing for the respondents submitted that the allegations made against the petitioner are serious and that the enquiry against him has almost concluded and final order is likely to be passed very shortly. He called upon this Court to dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record.

6. FR 53(1)(a)(i) reads as follows :

“53(1)(a)(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;”



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A reading of the aforesaid Rule would indicate that only if the delinquent official is responsible for non-conclusion of the disciplinary proceedings, then subsistence allowance can even be reduced. On the other hand if he is not responsible, obviously it has to be revised and enhanced. A mere look at the sequence of events would show that the petitioner is not at all responsible for the delay in concluding the proceedings. Though he was suspended in June 2018, charge memo came to be issued only on 25.05.2021. There is absolutely no explanation for the delay of three years in issuing the charge memo.

7. I am satisfied that the petitioner has clearly made out a case for revising and enhancement of the subsistence allowance from 50% to 75%. The only question that arises as from which date the enhancement has to be made. It is true that the petitioner has submitted an application only as early as on 31.10.2019. But he did not come to the Court immediately thereafter. He chose to move this Court for relief only in June 2022.

8. In the impugned order, it has been stated that there is no provision for enhancing the subsistence allowance. The authority has not taken note of FR 53(1)(a)(i). Therefore, the impugned order is set aside. The respondents are directed to revise the enhanced subsistence allowance payable to the writ



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petitioner. The same will be paid to the writ petitioner with effect from

17.06.2022. This writ petition is partly allowed. No costs.

16.11.2022

Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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