



WEB COPY



WP.No.13820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.13820 of 2023
and W.M.P.No.13484 of 2023

S.Vadivel

.. Petitioner

Versus

The Assistant Director of Survey
and Land Reforms
District of Collectorate Office
Hosur Taluk, Krishnagiri District

.. Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records in pursuant to the impugned order issued by the respondent in proceedings Na.Ka.T.4-2072-2022 dated 11.04.2023, quash the same and directing the respondent to enhancing subsistence allowance from 50% to 75% under the purview of the Section 53(1)(a) of the Fundamental Rules.

For Petitioner : Mr.A.Saravanan
For Respondents : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging order issued by the respondent in proceedings Na.Ka.T.4-2072-2022 dated 11.04.2023 rejecting the claim of the petitioner seeking enhancement of subsistence allowance, quash the same and consequently direct the respondent to enhance subsistence allowance from 50% to 75% under the purview of the Section 53(1)(a) of the



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Fundamental Rules.

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2. It is the case of the writ petitioner that the petitioner is placed under suspension on from 25.03.2022 vide Order dated 28.03.2022. Still, his suspension is not reviewed and he is under suspension. It is his grievance that after six month of suspension, he is entitled to 75% of subsistence allowance as per the Fundamental Rule, which is not paid to the petitioner. Hence, he made a representation to the respondent on 10.01.2023 for enhancing the subsistence allowance from 50% to 75%, which was rejected by the respondent by way of the impugned order. Challenging such rejection order, this writ petition has come up before this Court.

3. In the counter, it is stated that as per Rule 53(1)(a)(i)(ii) of the Fundamental Rule, the petitioner is not entitled to 75% of the enhanced subsistence allowance. Hence, his request was rejected. Therefore, seeks to dismiss this writ petition.

4. Heard both sides and perused the materials placed on record. Though the Rule 53(1)(a)(i)(ii) of the Fundamental Rule has been relied upon by the authorities in the impugned Order, this Court is of the view that as the



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petitioner is under suspension beyond one year, he is entitled to 75% of the subsistence allowance as per Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 and the same is hereby enhanced at 75%. In this regard, this Court in the case of *Tmt.Jayamani vs. The Assistant Director (I/c of Survey)*, W.P.No.1567 of 2018, by order dated 23.04.2018 has held as follows:

“...15. Before parting with the case, as it is submitted that the petitioner though entitled to 75% of the subsistence allowance inasmuch as there is nothing in the record indicating the fact that she had any contra version in delay in conducting the investigation of the case initiated against her and also the rules specifically provides to release 25%, more than the 50% of the salary given, as subsistence allowance on the expiry of six months, the authorities shall also release the same if the petitioner is entitled to the same.”

5. Such view of the matter, the respondent is directed to release the enhanced subsistence allowance immediately to the petitioner. Accordingly, the impugned order is hereby set aside and the writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

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Internet: Yes/No

Neutral Citation: Yes/No

N.SATHISH KUMAR, J.



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