



W.P.(MD)No.6773 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6773 of 2023

V.Muthupandi

... Petitioner

Vs

The Assistant Director of Survey and Land Records,
Office of the District and Land Survey,
Madurai District,
Madurai.

... Respondent

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 in his proceedings in Na.Ka.No.A4/5466/2022 dated 03.02.2023 (wrongly mentioned as 03.03.2022 in the Impugned Order) and quash the same and consequently direct the respondent to sanction the enchancement of the 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) (a)(i) of the Fundamental Rules within a time stipulated by this Court.

For Petitioner : Mr.S.Poornachandran

For Respondent : Mr.G.Suriyananth
Additional Government Pleader



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ORDER

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Heard the learned counsel on either side.

2.The petitioner is holding the post of Sub Inspector of Survey. He was implicated in a vigilance case. He was placed under suspension with effect from 29.07.2022. He is getting 50% of salary as subsistence allowance. He seeks enhancement of the same to 75%.

3.The respondent has filed counter affidavit and the learned Additional Government Pleader took me through its contents. He pressed for dismissal of the writ petition.

4.I carefully considered the rival contentions. By the impugned order, the respondent had rejected the petitioner's request for enhancement. The reason for rejection is that in the criminal case, final report is yet to be filed. The petitioner cannot be blamed for the non-filing of the final report. 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



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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;”

A reading of the aforesaid Rule would indicate that if the delinquent official is responsible for non-conclusion of the 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. As already noted, the petitioner cannot be faulted for the delay on the part of Investigation Officer in filing the final report. In these circumstances, the order impugned in the writ petition is set aside. The respondent is directed to enhance the subsistence allowance payable to the petitioner from 01.05.2023. This writ petition is allowed. There shall be no order as to costs.

05.04.2023

Index : Yes / No
Internet : Yes/ No
NCC : Yes / No
MGA

To

The Assistant Director of Survey and Land Records,
Office of the District and Land Survey,
Madurai District,
Madurai.



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G.R.SWAMINATHAN, J.

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