



W.P.(MD)No.8742 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8742 of 2023

Balamurugan

... 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. A4/3578/2022 dated 03.02.2023 and quash the same and consequently direct the respondent to sanction the enhancement 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 Advocate General



W.P.(MD)No.8742 of 2023

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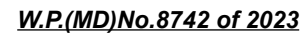
ORDER

Heard the learned counsel on either side.

2.The petitioner is holding the rank of Sub Inspector of Survey. He was suspended from service on 18.05.2022. The petitioner seeks revision and enhancement of subsistence allowance payable to him from the date of expiry of six months after suspension order was passed. He made a request in this regard. His request was rejected vide order dated 03.02.2023. Challenging 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 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.



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

A reading of the aforesaid Rule would indicate that 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. It is true that final order is yet to be passed and criminal case is still pending. The petitioner cannot be blamed for the non-filing of the final report by the Investigation Officer.



W.P.(MD)No.8742 of 2023

7.I am satisfied that the petitioner has clearly made out a case for revising and enhancing his subsistence allowance from 50% to 75%. The only question that arises for consideration is from which date enhancement has to be made. The petitioner submitted his application only on 25.01.2023. The respondent has not taken note of the relevant fundamental rule. Hence the order impugned in this writ petition is set aside. Therefore, the respondent is directed to revise and pay enhance subsistence allowance payable to the petitioner with effect from 03.02.2023.

8.This writ petition is allowed. There shall be no order as to costs.

18.04.2023

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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W.P.(MD)No.8742 of 2023

G.R.SWAMINATHAN, J.

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W.P.(MD)No.8742 of 2023

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