



W.P(MD)No.14427 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 20.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.14427 of 2023

and

W.M.P.(MD)No.12229 of 2023

J.Karthigaiselvan

... Petitioner

Vs.

**The Registrar,
Madurai Kamaraj University,
Palkalai Nagar,
Madurai.**

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings of the respondent in Ref.Estt.IV/2/2023 dated 27.03.2023 and quash the same as illegal and consequently direct the respondent to pay full subsistence allowances at the rate of 100 percentage in accordance with rule 53(i) of the fundamental Rules within the period that may be stipulated by this Court.

For Petitioner : Mr.E.Ilango

For Respondents : Mr.M.Sakthikumaran



W.P(MD)No.14427 of 2023

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the respondent.

2. The petitioner challenges the impugned order whereby his subsistence allowance has been reduced from 50% to 25%. The learned counsel points out that as per Fundamental Rule 53(i), if suspension of an employee goes beyond six months and he is not responsible for the delay in concluding the disciplinary proceedings, the subsistence allowance will have to be enhanced to 75%. But in the case on hand, even though the petitioner is not responsible for the delay in concluding enquiry, it has been unreasonably and arbitrarily reduced to 1/4th. The contentions advanced by the learned counsel appearing for the petitioner are no doubt attractive at first blush. But the learned standing counsel draws my attention to the relevant provision in the university statutes which is otherwise. The relevant statutes of MKU Chapter XX24 Clause 6 reads as follows:-

“(a) A University servant shall not be transferred to a post carrying less pay than the pay of the post on which he holds a lien except on account of inefficiency or misconduct or at his own request.

(b) A University servant shall begin to draw the pay and



W.P(MD)No.14427 of 2023

allowance attached to his tenure of a post with effect from the date when he assumes the duties of the post, and shall cease to draw them as soon as he ceases to discharge these duties.

(c) If a University servant takes charge of a post in the after-noon he shall for purposes of calculation of pay and allowances, be regarded as having taken charge of it on the subsequent day.”

3. The petitioner's service is covered by the University statutes and not by Fundamental Rules. Therefore, the order impugned in the writ petition cannot be interfered with. However, the fact remains that the petitioner was paid 50% of the salary as subsistence allowance by the University themselves. The petitioner cannot be charged with any misrepresentation. Therefore, what was paid to him towards subsistence allowance shall not be recovered.

4. Suspension was made way back in the year 2019. Almost, four years have gone-by. This certainly amounts to the case of prolonged suspension. Therefore, the respondent is directed to conclude the disciplinary proceedings within a period of four months from the date of receipt of a copy of this order. If the proceedings are not concluded by then, it will be open to the petitioner to move this Court seeking the relief of reinstatement.



WEB COPY



W.P(MD)No.14427 of 2023

G.R.SWAMINATHAN, J.

rmi

5. The Writ Petition is disposed of accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

20.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
rmi

W.P(MD)No.14427 of 2023

20.06.2023