



**W.P.(MD).No.26844 of 2023**

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

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**DATED : 08.11.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.26844 of 2023**

S.S.Porchelian

... Petitioner

Vs.

1. The Principal Accountant General (A&E)

No.361, Annasalai,  
Chennai – 18.

2. The Secretary,

Water Resource Department,  
Secretariat, Chennai – 9.

3. The Engineer – in-Chief,

W.R.O. and Chief Engineer (General)  
P.W.D., Chepauk,  
Chennai – 600 005.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay subsistence allowance for the period 01.02.2020 to 30.09.2023 and thereafter pay provisional pension from 30.09.2023 onwards to the petitioner by considering his representation dated 25.10.2023.

For Petitioner

: Mr.T.Leninkumar



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For Respondents : Mrs.S.Mahalakshmi  
Standing Counsel – for R1  
: Mr.S.Shaji Bino  
Special Government Pleader

### **ORDER**

The present Writ Petition has been filed by a Junior Engineer in the third respondent's Department seeking a mandamus to pay either the subsistence allowance or the provisional pension.

2. It is an admitted fact that the petitioner was convicted by the criminal court on 25.09.2019. Based upon the said conviction order, the respondents have terminated the services of the writ petitioner on 31.01.2020. No further proceedings have been initiated by the writ petitioner, challenging the said order of termination.

3. According to the learned counsel appearing for the writ petitioner, the writ petitioner has challenged the conviction and sentence in Criminal Appeal in CrI.A(MD)No. 465 of 2019 before this Court and an order of suspension of sentence has been granted on 03.10.2019 and the appeal is yet to be disposed of.



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4. In the said circumstances, the petitioner seeks either payment of subsistence allowance or the payment of provisional pension, under Rule 69 of the Tamil Nadu Pension Rules, 1978. The petitioner has also relied upon the judgment of the learned Single Judge of our High Court reported in **2011 (4) CTC 602 (C.N.Hariraman Vs. the Chairman, Tamil Nadu Electricity Board, and another)**.

5. Per contra, the learned Special Government Pleader appearing for the respondents 2 and 3 had contended that when the petitioner has been terminated, the question of payment of subsistence allowance or payment of provisional pension will not arise. He would rely upon the Rule 21 of the Tamil Nadu Pension Rule, 1978.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the material on records.

7. The termination of the writ petitioner is solely based upon the conviction imposed by the criminal Court. The conviction is yet to be set



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aside by this Court. Once the petitioner has been terminated, the question of payment of subsistence allowance thereafter, would not arise.

8. In view of the termination, only Rule 21 of the Tamil Nadu Pension Rules, 1978, will apply. It is needless to point out that in case of acquittal of the writ petitioner, in the pending appeal before this Court, he would be restored with all the monetary benefits.

9. The judgement cited by the writ petitioner is not a case of termination, but, it is a case where the petitioner was retained in service. Therefore, the said judgment is not applicable to this case. If the petitioner is acquitted by this Court, the petitioner is always at liberty to approach the authorities for cancellation of the termination order and for restoration of monetary benefits.



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10. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs.

**08.11.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes / No  
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To

1. The Principal Accountant General (A&E)  
No.361, Annasalai,  
Chennai – 18.
2. The Secretary,  
Water Resource Department,  
Secretariat, Chennai – 9.
3. The Engineer – in-Chief,  
W.R.O. and Chief Engineer (General)  
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**R.VIJAYAKUMAR,J.**

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