BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.28397 of 2023

K.Kannan ... Petitioner

Vs.

1.The Joint Commissioner (ST),
Sales Tax Department,
Dr.Thangaraj Salai,
K.K.Nagar,
Madurai-20.

2.The Deputy Commissioner (ST),
Office of the Deputy Commissioner,
Sales Tax Department,
Sub Collector Office Road,
Dindigul District.

3.The Assistant Commissioner,
Sales Tax Department,
Dindigul Rural,
Sub Collector Office Road,
Dindigul District. ... 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 to the petitioner for the post of Assistant in Sales

Tax Department with effect from 01.08.2022 to till date in light of Section 3 of Tamil Nadu Payment of Subsistence Allowance Act, 1981 and Rule 53 of Tamil Nadu Government Fundamental Rules by considering the representation made by the petitioner, dated 17.11.2023.

For Petitioner	:	Mr.I.Pinaygash
For Respondents	:	Mr.S.Shaji Bino Special Government Pleader

ORDER

The present writ petition has been filed by an Assistant, who is working in the Sales Tax Department seeking subsistence allowance.

2. The petitioner was appointed on 15.07.2003 as a Junior Assistant and he was promoted as Assistant on 14.10.2014. According to the petitioner, he was not permitted to attend duty from 01.08.2022 onwards on the ground that he has been orally suspended from service.

3. The learned Special Government Pleader appearing for the respondents, on instructions submits that the petitioner had remained absent unauthorisedly between 01.08.2022 and 05.08.2022, for which a charge memo

has been issued on 30.12.2022. An enquiry officer has been appointed on 26.09.2023. Therefore, the allegation of the writ petitioner that he was not permitted to attend duty is not factually correct.

4. The contentions of either parties clearly indicate that the petitioner has been issued with a charge memo for the alleged unauthorised absence between 01.08.2022 and 05.08.2022. However, the petitioner has not been placed under suspension. Therefore, the petitioner cannot be prevented from attending duty. The respondents are directed to permit the petitioner to attend duty from 04.12.2023 onwards. However, the respondents are at liberty to initiate any appropriate proceeding as per law.

5. This writ petition stands allowed to the extent as stated above. There shall be no order as to costs.

01.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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R.VIJAYAKUMAR, J.

BTR

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