

W.P.A. 7223 of 2019

**Lakshmi Jamadar
Vs.
The State of West Bengal & Ors.**

**Mr. Abhimanyu Banerjee
.....for the petitioner**

The writ petitioner is an employee of Beldanga Municipality who was placed under suspension due to initiation of a criminal proceeding against her under Sections 302/201 and 34 of IPC with effect from 6th May, 2011 vide memo dated 29th September, 2011 issued by the Chairman, Beldanga Municipality.

The learned advocate for the petitioner submits that she was allowed to resume duty with effect from 21st March, 2017 on being enlarged on bail. It is also submitted that at present petitioner is functioning as an employee of the municipality subject to final outcome of the criminal proceeding which is pending against her.

The learned advocate for the petitioner submits that the payment which has been made was not at the rate she was entitled to receive towards subsistence allowance. In support of such contention a chart has been annexed to this writ petition from page 31 onwards. On behalf of the petitioner claim has been laid for payment of subsistence allowance at the appropriate rate

in accordance with the relevant provisions. However, today no one is representing the respondent authorities.

Having considered the materials available on record and the submission made on behalf of the petitioner it appears that petitioner is an employee of Beldanga Municipality who was placed under suspension vide memo dated 29th September, 2011 with effect from 6th May, 2011 due to initiation of criminal proceeding against her. Subsequently, the concerned authority of the municipality permitted the petitioner to resume duty since she was enlarged on bail and presently petitioner is discharging her duty as an employee of the said municipality.

On perusal of the writ petition it appears that the grievance which has been ventilated relates to payment of arrear salary for the period from April, 2011 till February, 2019. In the writ petition nothing has been stated regarding non-payment of subsistence allowance to her during period of suspension. Previously another writ petition being WPA 28141 of 2017 was filed and the same was disposed of by order dated 24th January, 2018 by a coordinate Bench directing the concerned authority of the municipality to disburse the admitted dues to the petitioner at an early date. From the said order dated 24th January, 2018 it also does not transpire that a case was made out by the petitioner for non-payment of subsistence allowance to that extent query has been

made to the learned advocate for the petitioner. It has been replied on behalf of the petitioner that the grievance of the petitioner is not non-payment of subsistence allowance but the failure on the part of the municipality to pay subsistence allowance at appropriate rate in terms of the extant statutory provisions. This Court has also perused the flowchart which has been annexed to this writ petition, page 31 onwards, wherefrom it also does not appear that there was non-payment of subsistence allowance by the municipality.

However, considering the submission made on behalf of the petitioner it will be open to the petitioner to make a representation relating to failure on the part of the municipality to pay subsistence allowance at an appropriate rate during the relevant period when petitioner was under suspension within a period of fortnight from date and if such representation is preferred within the aforesaid time the concerned authority of the municipality shall take decision in accordance with law within 6 (six) weeks thereafter, if necessary, after granting opportunity of hearing to the petitioner and the decision to be taken by the concerned authority of the municipality shall be communicated to the petitioner within 1 (one) week thereafter.

With the aforesaid directions and observations the writ petition stands disposed of.

There shall be no order as to costs.

Urgent photostat certified copy of the order, if applied for, be given to the parties, upon usual undertakings.

(Saugata Bhattacharyya, J.)