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W.P.No.1013 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM :

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.1013 of 2024

K.Kumar

...Petitioner

-Vs-

1) The Secretary to the Government of India,
Ministry of Ports, Shipping & Waterways,
No.1, Parliament Street, New Delhi-110 001.

2) The Chairman,
Chennai Port Trust,
No.1, Rajaji Salai,
Chennai- 600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus calling for the records and quashing the order dated 18.12.2023 vide No.MEE/E4/1664(B)/2017/MM of the 2nd respondent granting only 50% subsistence allowance to the petitioner and consequently direct the 2nd respondent to grant 75% subsistence allowance to the petitioner in the post of Senior Deputy Materials Manager at Chennai Port Trust, Chennai with effect from the date of such 75% subsistence allowance was granted to the co-delinquent



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Mr.K.S.Nandakumar, Asst., Materials Manager, Chennai Port Trust, Chennai involved in the same charges that of the petitioner by the very same Chennai Port Trust within time frame.

For Petitioner : Mr.B.Thirumalai
For Respondent 1 : Mr.S.Makesh
Central Government Standing
Counsel

ORDER

This Writ Petition has been filed challenging the order passed by of 2nd respondent dated 18.12.2023 thereby extended the period of suspension and granted subsistence allowance at 50% subject to the production of non-employment certificate.

2. The petitioner had joined in the Chennai Port Trust as Assistant Controller of Stores, Class-I on 16.06.1994. In the year 2009, he was promoted as Deputy Materials Manager in Chennai Port Trust. While being so, due to some irregularities, criminal case has been lodged as against the petitioner. Pursuant to the same, the petitioner was suspended from service from 15.10.2019. Subsequently, it was extended till 22.12.2023 by order



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dated 17.12.2022. Once again, order of suspension has been renewed and re-communicated and continued his suspension for further period of six months i.e., from 23.12.2023 to 19.06.2024. However, he has subsistence allowance at the rate of 50% subject to the production of non-employment certificate. The petitioner is suffering with suspension for the past four years. However, he was paid only 50% of subsistence allowance since the criminal case is pending for trial in C.C.No.5 of 2019 on the file of the XIV Addl. Spl. Judge for CBI Cases, Madras. The case of the petitioner for reinstatement was not considered.

3. However, if an employee is under suspension for more than six months is entitled for subsistence allowance at the rate of 75%. Therefore, the petitioner suspended for more than six months and he is entitled for subsistence allowance at the rate of 75%. The petitioner has challenged the order of suspension from 15.10.2019 onwards. Therefore, the petitioner is entitle for subsistence allowance at the rate of 75%. Accordingly, the 2nd respondent is directed to pay the subsistence allowance at the rate of 75% to the petitioner from January 2024 onwards.



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4. With the above direction, this writ petition stands disposed of.

No costs.

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Index : Yes/No

Internet: Yes/No

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To

- 1) The Secretary to the Government of India,
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G.K.ILANTHIRAIYAN,J.
gvn

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