



W.P.No.9117 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.01.2024

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.9117 of 2020
and W.M.P.No.11115 of 2020

K.M.Thamilselvan

...

Petitioner

/vs/

1. The District Collector,
Tiruppur District,
Tiruppur.

2. The Personal Assistant to District Collector (Development),
O/o. The District Collector Office,
Tiruppur District.

3. The Assistant Director of Panchayats,
O/o. The Assistant Director of Panchayats,
Tiruppur,
Tiruppur District.

4. The Block Development Officer / The Special Officer,
O/o. The Block Development Office,
Pogalur Union,
Palladam Taluk,
Tiruppur District.

5. The President,
Mathappur Panchayat,
Pogalur Union,
Tiruppur District.

... Respondents



W.P.No.9117 of 2020

Writ Petition is filed under Article 226 of the Constitution of India

to issue a writ of mandamus directing the respondents to disburse the subsistence allowance of the petitioner from the month of May, 2019 and increase the same in terms of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 and pay the same with an accrued interest for the belated payment within the period that may be stipulated by this Court.

For Petitioner ... Mr.T.Calvin Jones
for M/s.Ajmal Associates

For Respondents ... Mr.R.P.Murugan Raja for R1
Government Advocate for RR1 to 3

Mr.Digvijayapandian
for RR4 & 5

ORDER

This Writ Petition has been filed seeking writ of mandamus to direct the respondents to disburse the subsistence allowance of the petitioner from the month of May, 2019 and increase the same in terms of the Tamil Nadu Payment of Subsistence Allowance Act, 1981 and pay with an accrued interest for the belated payment.



W.P.No.9117 of 2020

2. The petitioner who was initially appointed as Panchayat Clerk on 23.01.1985 at Pogalur Panchayat, Tiruppur District, got his post redesignated as Panchayat Secretary, Pogalur Union, Tiruppur District. He have rendered 34 years of service and was due to retire on 31.05.2019. On the eve of his retirement, the petitioner was placed under suspension vide proceedings of the fourth respondent in Na.Ka.No.3305/2015/A2 dated Nil.05.2019 and in view that he was not allowed to retire from service for the reason that he did not pay a sum of of Rs.85,113/-.

3. Mr.I.Calvin Jones, the learned counsel for the petitioner, submitted that despite the proceedings have been initiated as early as in the year 2019, so far no further steps have been taken in this regard; earlier the petitioner had challenged the recovery order through which he was demanded to pay a sum of Rs.85,113/- by way of filing a writ petition in W.P.No.31915 of 2007 and the same was disposed by directing the authorities concerned to furnish a copy of the enquiry report dated 26.03.2004 and give an opportunity to the petitioner to submit his explanation and then to pass orders; only in the year 2013, the enquiry



W.P.No.9117 of 2020

report was served on the petitioner, however no order has been passed after the petitioner had submitted his explanation; in fact the petitioner had made his personal appearance before the second respondent and submitted his explanation in writing on 15.02.2016; but so far, the petitioner was neither allowed to retire nor any order has been passed on the submission of the petitioner in response of the recovery notice issued to him.

3.1 The learned counsel for the petitioner further submitted that the petitioner is being harassed due to the delay caused and he was also not paid with the subsistence allowance in accordance with proviso to Section 3 of the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

4. Mr.Digvijayapandian, the learned counsel for the fourth and fifth respondents, submitted that the Tamil Nadu Payment of Subsistence Allowance Act, 1981 is not applicable to the Secretaries of the Village Panchayat because they are governed under Rule 17(4) of Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013; even according to the said rule during the period of suspension, a person



W.P.No.9117 of 2020

holding the post is eligible for subsistence allowance at the rate of 50% of last pay and allowance drawn by him; the petitioner was allowed to retire on 31.05.2019 itself and in that case, he will be eligible to get special monthly pension of Rs.2,000/- as per G.O.Ms.No.314, Finance (Pay Cell) Department, dated 25.10.2017.

5. However the learned counsel for the petitioner submitted that the petitioner was not allowed to retire as stated by the fourth respondent in his counter in Paragraph No. 12 which is extracted below:

“ .. 12. If the petitioner was allowed to retire on 31.05.2019, he will be eligible for getting the Special Monthly Pension of Rs.2000/- as per the G.O.Ms.No.314 Finance (Pay Cell) Department, dated 25.10.2017.”

6. Since the petitioner had attained the age of superannuation as early as in the year 2019 and he had already challenged the order of recovery of the amount for which he was kept under suspension, it is appropriate for the respondents to consider the explanation submitted by the petitioner and pass an order within a stipulated time.



W.P.No.9117 of 2020

7. Accordingly, this Writ Petition is disposed with a direction to the respondents to consider the explanation submitted by the petitioner on 15.02.2016 and pass orders within a period of two weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

08.01.2024

Index: Yes / No

Speaking order / Non-speaking order

Neutral Citation: Yes / No

bkn



W.P.No.9117 of 2020

To:

WEB COPY

1. The District Collector,
Tiruppur District,
Tiruppur.
2. The Personal Assistant to District Collector (Development),
O/o. The District Collector Office,
Tiruppur District.
3. The Assistant Director of Panchayats,
O/o. The Assistant Director of Panchayats,
Tiruppur,
Tiruppur District.
4. The Block Development Officer / The Special Officer,
O/o. The Block Development Office,
Pogalur Union,
Palladam Taluk,
Tiruppur District.
5. The President,
Mathappur Panchayat,
Pogalur Union,
Tiruppur District.



WEB COPY



W.P.No.9117 of 2020

R.N.MANJULA ,J.

bkn

W.P.No.9117 of 2020

08.01.2024