



WEB COPY



W.P.No.9623 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 9623 of 2024

C.Subramani

.... Petitioner

Vs

The Tamil Nadu Civil Supplies Corporation,
Rep. by its Managing Director,
10, Thambusamy Road,
Chennai – 10.

.... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the respondent to pay the subsistence allowance from 01.10.2023 and continue to pay the same till the disposal of the criminal case pending on the file of the CBCID, Vellore.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.S.Somasundaram
Standing Counsel

ORDER

This Writ Petition has been filed for a direction, directing the respondents to pay the subsistence allowance from 01.10.2023.



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2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was working as Superintendent at Vellore Region of the respondent Corporation. While being so, alleging a certain irregularities in the procurement of paddy, he was suspended from service on 07.08.2021,. Pursuant to the suspension, he was served with a charge memo on 08.01.2022. Simultaneously, a police complaint was lodged before the Inspector of Police, CBCID North Police Station, Vellore. FIR has been registered in Crime No.1 of 2022 for the offences under Sections 166, 167, 420 & 120(B) of IPC. Pursuant to the registration of the FIR, the petitioner was arrested and remanded to judicial custody. Pending investigation, an enquiry was conducted by the disciplinary authority and final order is yet to be passed. The criminal case is also pending for investigation. The petitioner was due for retirement on 31.03.2023. However, the petitioner was not permitted to retire from service and the period of suspension was extended for a further period. The petitioner was paid subsistence allowance till September 2023. However, thereafter, he was not paid subsistence allowance.



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4. A perusal of the counter filed by the respondents and the submissions of the learned Standing Counsel for the respondents reveals that as per the amended regulations in Regulation 13 Chapter-I of the Employees Service Regulations 1989, the employee is so retained in service beyond the date of normal retirement for the purpose of disciplinary action under Rule 13(a) and 13(b) is entitled for payment of subsistence allowance at the rates as provided in the Service Rules till completion of the disciplinary proceedings or for a period of six months whichever occurs earlier. However he is not eligible to claim any other benefits during such suspension period.

5. Admittedly, the disciplinary proceedings is pending and the criminal case is also pending. The petitioner was not allowed to retire from service on attainment of age of superannuation. Though he was paid subsistence allowance, he was not paid the subsistence allowance for a period of six months. The Regulation 13(c) is clear that the respondents ought to have completed the disciplinary proceedings within a period of six months or the respondents ought to have permitted the petitioner to retire from service, then only the delinquent is not entitled for subsistence allowance after a period of six months.



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6. In the case on hand, the disciplinary proceeding is still pending as against the petitioner without passing any final order. That apart, the criminal case is also pending at the stage of investigation. Since the petitioner has committed a serious offence, the disciplinary proceeding could not be completed and the investigation is also still pending. Therefore, the petitioner is entitled for subsistence allowance.

7. In view of the above, the respondents are directed to settle the arrears of subsistence allowance from 30.09.2023 and continue the subsistence allowance till the completion of disciplinary proceedings within a period of four weeks from the date of receipt of a copy of this order.

8. With the above direction, this writ petition stands allowed. No costs.

31.07.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To
The Managing Director,
The Tamil Nadu Civil Supplies Corporation,
10, Thambusamy Road,
Chennai – 10.



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G.K.ILANTHIRAIYAN, J.

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