



WEB COPY



W.P.No.27167 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.27167 of 2024

P.Venkatachalam

.. Petitioner

Vs.

1.The Assistant Director of Town Panchayat,
Dharmapuri Zone,
Dharmapuri District.

2.The Executive Officer,
Co-Mallapuram Town Panchayat,
Dharmapuri District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order in Na.Ka.No.302/2023/A1 dated 12.08.2024 on the file of the 2nd respondent and quash the same and consequently direct the 2nd respondent to pay 100% wages of the petitioner as subsistence allowance from 14.05.2024 onwards, by virtue of Section 3(1)(4) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981, within the time frame that may be fixed by this Court.



W.P.No.27167 of 2024

For petitioner : Mr.S.Arokiamaniraj
For R1 : Mr.C.Selvaraj
Additional Government Pleader
For R2 : Mr.S.Balamurugan
Government Advocate

ORDER

This writ petition has been filed challenging the proceedings of the 2nd respondent dated 12.08.2024 and for a consequential direction to the 2nd respondent to pay 100% wages to the petitioner as subsistence allowance by virtue of the relevant provisions under the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

2.Heard the learned counsel for the petitioner, learned Additional Government Pleader for the 1st respondent and the learned Government Advocate for the 2nd respondent.

3.The case of the petitioner is that he was working as a Over Head Tank Watchman in the 2nd respondent office. An FIR came to be registered in Crime No.6 of 2023 by the V&AC, Dharmapuri. The petitioner was arrayed as an accused. The petitioner was arrested and



remanded to judicial custody. The same resulted in the 2nd respondent passing an order of suspension dated 14.10.2023. Thereafter, the suspension is continued for the petitioner till date.

4.Initially the petitioner was paid 50% wages as subsistence allowance. Thereafter, it was increased to 75% effective from 01.07.2024. According to the petitioner, he is entitled for 100% wages as subsistence allowance, since his suspension has exceeded 180 days. When the petitioner made a representation in this regard, the 2nd respondent through the impugned proceedings dated 12.08.2024 rejected the claim made by the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

5.It was contended that the petitioner is entitled for 100% wages since, his suspension has exceeded 180 days, as per Section 3(1)(4) of the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

6.The petitioner is under suspension pursuant to a criminal case registered against the petitioner. The suspension order was passed as early as on 14.10.2023. Since, the suspension is subsisting / continuing



W.P.No.27167 of 2024

for nearly an year, the petitioner is now insisting for payment of 100% wages as subsistence allowance. If the claim made by the petitioner is conceded, the petitioner will be earning the salary which he would be earning otherwise by doing his regular duty. Such a situation should never be permitted particularly when the salary is paid out of the public exchequer.

7.In view of the above, this Court is not inclined to interfere with the order passed by the 2nd respondent dated 14.10.2023. In the considered view of this Court, the suspension of the petitioner can be revoked and he can be posted in a non-sensitive post and the petitioner can be paid salary by extracting work from him.

8.In view of the above, there shall be a direction to the petitioner to make a representation to the 2nd respondent within a period of two (2) weeks from the date of receipt of a copy of this order seeking for revocation of the order of suspension. The 2nd respondent on receipt of the same, shall deal with the representation and pass appropriate orders revoking the order of suspension and post the petitioner in some non-sensitive post. This process shall be completed by the 2nd respondent



W.P.No.27167 of 2024

within a period of six (6) weeks from the date of receipt of the representation from the petitioner.

9. Accordingly, this Writ Petition stands disposed of with the above directions. No costs.

20.09.2024

krk

Index : Yes / No
Internet : Yes / No
Neutral Citation : Yes / No

To

1. The Assistant Director of Town Panchayat,
Dharmapuri Zone,
Dharmapuri District.

2. The Executive Officer,
Co-Mallapuram Town Panchayat,
Dharmapuri District.



WEB COPY



W.P.No.27167 of 2024

N.ANAND VENKATESH, J.

krk

W.P.No.27167 of 2024

20.09.2024