



W.P.(MD).No.8009 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.03.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.8009 of 2024

K.Kannan

... Petitioner

Vs

1. The Joint Commissioner (ST),
Sales Tax Department,
Dr.Thangaraj Salai,
K.K.Nagar, Madurai-20.
2. The Deputy Commissioner (ST),
O/o. Deputy Commissioner,
Sales Tax Department,
Sub Collector Office Road,
Dindigul District.
3. The Assistant Commissioner,
Sales Tax Department,
Dindigul Rural, Sub Collector Office Road,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to pay subsistence allowance to the petitioner for the post of Assistant in Sales Tax Department with effect from 01.08.2022 to till reinstatement, dated



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04.12.2023 in light of Section 3 of Tamil nadu Payment of Subsistence Allowance Act 1981 and Rule 53 of Tamil Nadu Government Fundamental Rules by considering the representation made by the petitioner, dated 11.03.2024 within the time stipulated by this Court.

For Petitioner : Mr. I.Pinaygash

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The present writ petition has been filed seeking a direction to the respondents to pay subsistence allowance to the petitioner for the post of Assistant in Sales Tax Department with effect from 01.08.2022 to till reinstatement, dated 04.12.2023 in light of Section 3 of Tamil nadu Payment of Subsistence Allowance Act 1981 and Rule 53 of Tamil Nadu Government Fundamental Rules by considering the representation made by the petitioner, dated 11.03.2024 within the time stipulated by this Court.

2.By consent of both parties, considering the limited relief sought for by the petitioner, the Writ Petition is taken up for final disposal at the stage of admission itself.



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3.Heard, the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Perused the materials on record.

4.The petitioner joined as Junior Assistant on 15.07.2003 in Nilakottai Sales Tax Department and on 14.10.2014, he was promoted as Assistant. In the meanwhile, two criminal cases in Cr.Nos.426 of 2022 and 2 of 2023 came to be registered against the petitioner and his relatives. In view of the same, the petitioner was not permitted to join duty by the Assistant Commissioner from 01.08.2022 onwards. Thereafter, the petitioner was permitted to rejoin to duty on 04.12.2023, as per the order of this Court in W.P(MD) No.28397 of 2023, dated 01.12.2023. The petitioner made representations on 19.09.2023 and 17.11.2023 to provide him with subsistence allowance for the period from 01.08.2022 to 03.12.2023, ie., for one year and 3 months. However, the same were not considered. Hence, this writ petition came to be filed.

5. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the



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respondents to consider the same on its own merits and pass appropriate orders in one way or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of Constitution of India and direct the respondents to consider the same within a stipulated time.

6.Considering the limited scope of the relief sought for by the petitioner, without going into the merits of the case, this Court hereby direct the respondents to consider the representation of the petitioner, dated 17.11.2023 and pass appropriate orders within a period of twelve (12) weeks, from the date of receipt of a copy of this order.

7.With the above direction, this writ petition stands disposed of.
There shall be no order as to costs.

28.03.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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L.VICTORIA GOWRI, J.

PNM

**ORDER IN
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28.03.2024