



W.P.(MD)No.21884 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.21884 of 2023

V.Selvarangan

.. Petitioner

Vs.

The Assistant Director,
Survey & Land Records,
Collectorate Building,
Theni District- 625 534.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records from the respondent in the proceedings of reference in Na.Ka.No.A1/6401/22 dated 14.08.2023 and quash the same and consequently direct the respondent to sanction the enhancement of the subsistence allowance to the petitioner right from the date of the expiry of 6 months os suspension as per the specific provision



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contained under Rule 53(1)(a)(i) of the Fundamental Rules.

For Petitioner : Mr.V.Lakshmana Raja

For Respondent : Mr.M.Lingadurai
Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking for issuance of Writ of Certiorarified Mandamus to quash the impugned proceedings of the respondent in Na.Ka.No.A1/6401/22 dated 14.08.2023 and consequently direct the respondent to sanction the enhancement of the subsistence allowance to the petitioner right from the date of the expiry of 6 months os suspension as per the specific provision contained under Rule 53(1)(a)(i) of the Fundamental Rules.

2. Heard Mr.V.Lakshmanaraja, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Special Government



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Pleader appearing for the respondent.

3. The petitioner is holding the rank of Firka Surveyor, Mylampadumpaaraai Firca, Andipatti Taluk, Theni District. He was suspended from service on 08.02.2023. The petitioner made a representation to the 2nd respondent on 27.03.2023 to revoke his suspension and the same was rejected by stating that the criminal case is pending under investigation. Aggrieved over the same, the petitioner filed WP(MD)No.11063 of 2023 to reinstate the petitioner in service and the same is pending. Thereafter, the petitioner seeks revision and enhancement of subsistence allowance payable to him from the date of expiry of six months after suspension order was passed. He made a request in this regard. His request was not considered stating that after the disposal of the WP(MD)No.11063 of 2023 filed by the petitioner, his representation will be considered. Challenging the same, the present writ petition has been filed.



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4. Mr.V.Lakshmanaraja, learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. He also placed reliance upon the order of this Court made in W.P(MD)No.8742 of 2023 in which similarly placed person was granted a favourable order and he has also placed reliance on FR 53(1)(a)(i). He pressed for setting aside the impugned order and granting relief as prayed for.

5. Per contra, Mr.M.Lingadurai, learned Special Government Pleader appearing for the respondent submitted that the allegations made against the petitioner are serious in nature and that the enquiry against him has almost concluded and final order is likely to be passed very shortly. He called upon this Court to dismiss the writ petition.

6. For ready reference, Fundamental Rule 53(1)(a)(i) is extracted hereunder:

“53(1)(a)(i): The amount of subsistence



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allowance may be increased by a suitable amount, not exceeding fifty per cent of the subsistence allowance admissible during the period of the first six months, if, in the opinion of the said authority, the period of suspension has been prolonged for reasons to be recorded in writing, not directly attributable to the Government servant.”

7. A reading of the aforesaid Rule would indicate that if the delinquent official is responsible for non-conclusion of the disciplinary proceedings, then subsistence allowance can even be reduced. On the other hand if he is not responsible, obviously it has to be revised and enhanced. A mere look at the sequence of events would show that the petitioner is not at all responsible for the delay in concluding the proceedings. It is true that final order is yet to be passed and criminal case is still pending. The petitioner cannot be blamed for the non-filing of the final report by the Investigation Officer.

8. I am satisfied that the petitioner has clearly made out a case for revising and enhancing his subsistence allowance from 50% to 75%. The only question that arises for consideration is from



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which date enhancement has to be made. The petitioner submitted his application only on 22.08.2023. Since the respondent has not taken note of the relevant fundamental rule, the impugned order is liable to be set aside.

9. In the light of the above observation, this writ petition is **allowed**. The respondent is directed to revise and pay enhance subsistence allowance payable to the petitioner with effect from 14.08.2023. No Costs.

24.04.2024

Index:yes/no
Internet:yes/no
Ncc : yes/no
PJJ

To
The Assistant Director,
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PJL

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