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W.P.(MD) No.26781 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.26781 of 2019

and

W.M.P.(MD) Nos.23137 & 23140 of 2019

N.Anbarasu

... Petitioner

-VS-

1.The Chief Executive Officer
Tamil Nadu Khadi and Village Industries Board
Kuralagam
Chennai-600 104

2.The Assistant Director
Khadi and Village Industries
Dindigul

3.The Assistant Director
Khadi and Village Industries
Coimbatore

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue
a writ of certiorarified mandamus calling for the records pertaining to the



W.P.(MD) No.26781 of 2019

WEB COPY

impugned proceedings in Na.Ka.No.4112/E2(2)/2019, dated 13.09.2019, issued by the first respondent and quash the same and illegal and consequently direct the respondents 1 and 2 to pay Hill Allowance and Winter Allowance to the petitioner with effect from 19.11.2018 along with arrears, within a time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader for R1
Mr.Raguvaran Gopalan
Standing Counsel for R2 & R3

ORDER

This writ petition has been filed challenging the order dated 13.09.2019, passed by the first respondent, rejecting the petitioner's request for payment of hill allowance and winter allowance with effect from 19.11.2018 along with arrears.

2. Under the impugned order, the petitioner's request has been rejected, on the ground that the hill allowance and winter allowance are payable only if the petitioner is deputed from one Department to another



W.P.(MD) No.26781 of 2019

WEB COPY

Department and since he was deputed from one area to another area of the respondent – Khadi Board, the question of payment of hill allowance and winter allowance to him does not arise.

3. The petitioner has challenged the impugned order, on the ground that the same is erroneous, illegal and arbitrary and has been passed by total non-application of mind. According to the petitioner, the first respondent ought to have seen that the petitioner, who was employed under the second respondent, was transferred and posted under the third respondent in an Eucalyptus Oil Production Unit at Udhagamandalam, on deputation basis. According to him, when it is an admitted fact that the working place of the petitioner is situated in a hilly area, the first respondent ought to have granted hill allowance and winter allowance to him with effect from 19.11.2018, which is the date of his joining duty in the hilly area. The petitioner also relies upon a Government Order in G.O.Ms.No.306, Finance (Pay Cell) Department, dated 13.10.2017, which contains several guidelines for payment of hill allowance.



W.P.(MD) No.26781 of 2019

WEB COPY

4. The relevant portion of G.O.Ms.No.306, Finance (Pay Cell Department), dated 13.10.2017, pertaining to the case on hand, reads as follows:

“HILL (AREA) ALLOWANCE

21. Hill Allowance shall be continued to be at the same rate of 20 percent of basic pay. However, the maximum ceiling limit of Hill Allowance shall be enhanced from Rs.1500/- per month to Rs.6000/- per month.”

5. According to the petitioner, having satisfied the said guidelines for getting hill allowance and winter allowance, the first respondent ought to have granted the same to him.

6. As seen from the Government Order in G.O.Ms.No.306, Finance (Pay Cell Department), dated 13.10.2017, it is clear that the reasons disclosed in the impugned order for rejection of the petitioner's request do not find a place for disallowing the petitioner's request for payment of hill allowance and winter allowance. Admittedly, the petitioner was working in a hilly area with effect from 19.11.2018 and he is entitled for payment of hill allowance and



W.P.(MD) No.26781 of 2019

WEB COPY

winter allowance as per G.O.Ms.No.306, Finance (Pay Cell Department), dated 13.10.2017, from the date of his joining duty till the date of his service in the hilly area. When the guidelines framed in G.O.Ms.No.306, Finance (Pay Cell Department), dated 13.10.2017, do not impose any restrictions, as contended by the first respondent in the impugned order with regard to the payment of hill allowance and winter allowance, this Court is of the considered view that arbitrarily, by total non-application of mind to G.O.Ms.No.306, Finance (Pay Cell Department), dated 13.10.2017, the first respondent has rejected the petitioner's request for payment of hill allowance and winter allowance, despite the undisputed fact that the petitioner was working in the hilly area with effect from 19.11.2018. Therefore, the impugned order passed by the first respondent rejecting the petitioner's request for payment of hill allowance and winter allowance is arbitrary and it has been passed by total non-application of mind to G.O.Ms.No.306, Finance (Pay Cell Department), dated 13.10.2017 and therefore, necessarily the same will have to be quashed and the writ petition will have to be allowed.

7. Accordingly, this writ petition is allowed and the impugned order, dated 13.09.2019, passed by the first respondent, is hereby quashed.



W.P.(MD) No.26781 of 2019

WEB COPY

The second respondent is directed to disburse the eligible hill allowance and winter allowance to the petitioner for the period from 19.11.2018 till he was working in the hilly area, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

21.10.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

The Chief Executive Officer,
Tamil Nadu Khadi and Village Industries Board,
Kuralagam, Chennai-600 104.



WEB COPY



W.P.(MD) No.26781 of 2019

ABDUL QUDDHOSE, J.

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W.P.(MD) No.26781 of 2019
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