



W.P.(MD)No.7652 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2025

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD)No.7652 of 2025

and

W.M.P(MD)Nos.5808 and 5809 of 2025

Packiyaraj

... Petitioner

Vs.

The Assistant Director,
Survey and Land Records,
District Land Survey Office,
Dindigul,
Dindigul District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records from the respondent in the proceedings of reference Na.Ka.A3/3521/2024, dated 07.03.2025 and quash the same as illegal, arbitrary and violative of principles of natural justice and consequently directing the respondent to sanction the enhancement of the subsistence allowance to the petitioner right from the date of the expiry of 6 months of suspension as per the specific provision contained under Rule 53(1)(a)(i) of the Fundamental Rules within the time frame stipulated by this Court.



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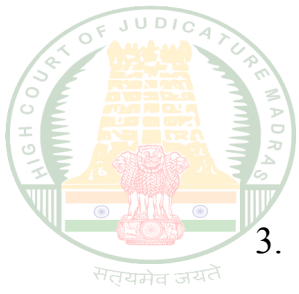
For Petitioner : Mr.S.Srikanth

For Respondent : Mr.D.Sachi Kumar
Additional Government Pleader

ORDER

This writ petition has been filed against the order passed by the respondent on 07.03.2025, wherein, the request of the petitioner to increase the subsistence allowance from 50% to 75% is rejected.

2. Against the petitioner, who was working as Sub Inspector of Survey, a case was registered by the Department of Vigilance and Anti corruption, Dindigul District in Crime No.3 of 2024, dated 02.07.2024. Pursuant to the registration of the criminal case, he was kept under suspension vide order, dated 03.07.2024. From the date of suspension, he was paid 50% of subsistence allowance. He made a representation to the respondent to enhance the subsistence allowance right from the date of expiry of six months of suspension as per Rule 53(1)(a)(i) of the Fundamental Rules. The said representation was rejected by the respondents on 07.03.2025 stating that the criminal case registered against him by the Department of Vigilance and Anti Corruption is pending. Aggrieved by the same, he filed this writ petition.



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3. Heard the learned counsel for the petitioner, learned Additional Government Pleader for the respondent and perused the materials available on record.

4. On perusal of the order impugned in this writ petition, it appears that the request of the petitioner was rejected by the respondent on the ground that he was arrested by the Department of Vigilance and Anti Corruption and the case is yet to be prosecuted against him before the Court. In the considered opinion of this Court, the reasons stated by the respondent in the impugned order to reject the request of the petitioner is unreasonable and illegal in view of the fact that as per Rule 53 (1) (a) of the Fundamental Rules, a Government Servant, who is placed under suspension shall be entitled to the subsistence allowance of half of the pay last drawn by the Government Servant and in addition to the Dearness Allowance, if admissible on the basis of half of the pay last drawn and Rule 53 (1) (a) (i) of the Fundamental Rules provided that the amount of subsistence allowance may be increased by a suitable amount not exceeding 50% of the subsistence allowance admissible during the period of first six months, if in the opinion of the said authority, the period of suspension has been prolonged for the reasons to be recorded in writing not directly attributable to the Government servant.



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WEB COPY 5. Admittedly, in the present case, the petitioner was suspended on 03.07.2024. After completion of six months, he submitted a representation on 03.03.2025. For pendency of the disciplinary proceedings or pendency of the criminal proceedings, the reasons are not attributable to the petitioner. It is for the investigating agency or the Department has to be proceeded with the enquiries. It appears that in the present case, charge sheet was not filed by the investigation department and charge memo was not issued by the Department to conduct the disciplinary proceedings. Under these circumstances, the petitioner is not at all fault for not concluding the investigation or the departmental proceedings. As such, the ground stated in the impugned order that due to the pendency of the criminal case against him, he is not entitled for seeking enhancement of the subsistence allowance is un-sustainable and untenable in the light of 53 (1) (a) (i) of the Fundamental Rules.

6. For the reasons stated above, this writ petition is allowed with the following directions:

1. The impugned order, dated 07.03.2025 is hereby set aside and the matter is remitted back to the respondent.



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2. The respondent is directed to pass orders afresh on the representation of the petitioner for enhancement of the subsistence allowance strictly following the Rule 53(1) (a) (i) of the Fundamental Rules.

No costs.

Consequently, the connected miscellaneous petitions are closed.

20.03.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Sn

To:

The Assistant Director,
Survey and Land Records,
District Land Survey Office,
Dindigul,
Dindigul District.



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BATTU DEVANAND, J.

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20.03.2025