



W.P(MD)No.9678 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
WEB COPY

DATED: 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD). No.9678 of 2022

Murugan A

... Petitioner

Vs

1.The Revenue Divisional Officer,
Pudukottai, Pudukottai District.

2.The Thashildar,
Ponnamaravathi, Pudukottai District.

3.The Thashildar,
Thirumayam, Pudukottai 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 second respondent to trace out the service register which belongs to the petitioner and pay the subsistence allowance from the year June 2010 to till date based on the petitioner's representation dated 04.01.2022 within the period that may be stipulated by this Court.



WEB COPY



W.P(MD)No.9678 of 2022

For Petitioner : Mr.N.Kamesh
For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

The petitioner, a Village Assistant of Valaikurichivattam was suspended from service in the year 2006 for his involvement in a criminal case. He was paid with the subsistence allowance till 2010. The petitioner with a grievance that the subsistence allowance was not paid to the petitioner after 2010 has filed this writ petition in the year 2022.

2.The learned Special Government Pleader appearing for the respondents has raised a preliminary objection that the claim for subsistence allowance has been made by this petitioner after 10 long years and therefore, it has to be rejected on the ground of laches.

3.The learned counsel appearing for the petitioner submits that the petitioner is under suspension from the year 2006



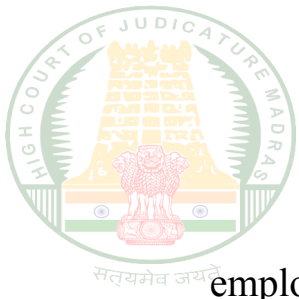
W.P(MD)No.9678 of 2022

WEB COPY

and therefore, he was not in a position to arrange funds for filing a writ petition. He was also denied the subsistence allowance from the year 2010 and therefore, he is finding very difficult to meet his ends.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.Admittedly, this petitioner was placed under suspension in the year 2006, for his involvement in a criminal case and no final order has been passed on the suspension order. He was also paid with the subsistence allowance till 2010 and thereafter he was denied. The petitioner has approached this Court belatedly in the year 2022 for payment of arrears of subsistence allowance from the year 2010. The main contention of the petitioner is that he was not in a position to file a writ petition due to financial crisis. In the event, if the Department has suspended an employee, then they ought to have taken a final decision within a reasonable time. More over, once the subsistence allowance has been paid to a suspended



W.P(MD)No.9678 of 2022

WEB COPY

employee, it has to continue till a final decision is taken in the disciplinary proceedings. However, in the present case, the respondents have neither paid the subsistence allowance nor taken any decision on the suspension order. Therefore, the petitioner is entitled for subsistence allowance from the year 2010 and this Court is inclined to allow this writ petition.

6.At this juncture, the learned Special Government Pleader has insisted for a certificate that this petitioner was not gainfully employed anywhere during his suspension period.

7. It is very difficult to get such a certificate from any employer that he has not been gainfully employed for 10 years. Therefore, the petitioner is directed to file an affidavit of undertaking before the second respondent that he was not gainfully employed during his suspension period and the same may be considered by the respondents for further proceedings.



W.P(MD)No.9678 of 2022

WEB COPY

8. Accordingly, this writ petition is allowed with a direction to the respondents to consider the case of this petitioner on receipt of his undertaking as stated above and to pay the eligible subsistence allowance till the final decision is taken in the disciplinary proceedings, if any. The respondent Department can also recover this amount from the officer, who has failed to initiate the disciplinary proceedings. No costs.

09.01.2025

NCC: Yes/No

Index: Yes

vrn

To

1. The Revenue Divisional Officer,
Pudukottai, Pudukottai District.
2. The Thashildar,
Ponnamaravathi, Pudukottai District.
3. The Thashildar,
Thirumayam, Pudukottai District.



WEB COPY



W.P(MD)No.9678 of 2022

B.PUGALENDHI, J.

vrn

Order made in
WP(MD). No.9678 of 2022

09.01.2025