

(2010) 09 MAD CK 0139

In the Madras High Court

Case No : Writ Petition No. 16316 of 2010 and M.P. No. 1 of 2010

E. Dhayarathan

APPELLANT

Vs

The Principal Secretary/Chairman and Managing Director
State Industries Promotion Corporation of Tamil Nadu Ltd.
and The Senior Project Manager

RESPONDENT

Date of Decision : 03-09-2010

Acts Referred:

Citation : (2010) 09 MAD CK 0139

Hon'ble Judges : D. Hariparanthaman, J

Bench : Single Bench

Advocate : Ravi Shanmugam, for the Appellant; M. Devaraj, for the Respondent

Judgement

D. Hariparanthaman, J.—The petitioner was employed as Assistant Engineer in the respondent - Corporation. He was promoted as Assistant Executive Engineer on 30.06.2009. He was placed under suspension by the first respondent by an order dated 12.11.2009. He is paid subsistence allowance at the rate of 50% of his last drawn wages. According to the petitioner, he is entitled to 75% of subsistence allowance, if the suspension exceeds more than six months.

2. Hence, the petitioner has come up with the present writ petition seeking for a direction to the first respondent to pay 75% subsistence allowance with effect from 12.05.2010 in the revised scale of pay of Rs. 15600-39100 till the date of revocation of the order of suspension.

3. Heard the submissions made on either side and perused the materials available on record.

4. The learned Counsel for the petitioner relies on Rule 6.21 of the Services Rules of SIPCOT and the same is extracted hereunder:

6.21. Subsistence allowance:

An employee of the Corporation who is placed under suspension pending enquiry

shall be paid subsistence allowance at half of the pay last drawn in addition to the dearness allowance for the period of six months.

The amount of subsistence allowance may be increased in the succeeding month by a suitable amount not exceeding fifty percent of the subsistence allowance admissible during the period of the first six months, if in the opinion of the authority who has placed him under suspension, the period of suspension has been prolonged for reasons to be recorded in writing not directly attributable to the employee of the Corporation.

The amount of subsistence allowance may be reduced in the succeeding months by a suitable amount not exceeding fifty percent of the subsistence allowance admissible during the period of first six months, if in the opinion of the authority who has placed him under suspension, the period of suspension has been prolonged for reasons to be recorded in writing directly attributable to the employee.

5. The aforesaid Rule makes it very clear that the petitioner is entitled to 75% of last drawn wages as subsistence allowance, if the suspension goes beyond six months. In fact, the issue was considered by this Court in the judgment in P. Soundararajan v. The Senior Project Manager, SIPCOT Industrial Complex, Gummidipoondi in W.P. No. 22487 of 2006 (decided on 09.08.2006). Para 5 of the said judgment is extracted hereunder:

5. In view of the same, I have no hesitation to come to the conclusion that the petitioner is entitled for the subsistence allowance as per the rules governed in the service condition of the petitioner. In the present case, the petitioner had been paid 50% of the salary upto October 2005, namely, first six months period and from November onwards till date the petitioner is entitled for enhanced payment of subsistence allowance at the rate of 75%. The respondents are directed to pay the subsistence allowance at the said rate to the petitioner and arrears till date shall be paid within a period of two weeks from the date of receipt of a copy of this order and subsequent subsistence allowance also continue to be paid till the disciplinary proceedings initiated against the petitioner are completed.

6. In my considered view, since the suspension period of the petitioner exceeds six months period as contemplated under Rule 6.21 of the Service Rules of SIPCOT, the petitioner is entitled to 75% of last drawn wages as subsistence allowance.

7. In the result, the writ petition is disposed of with a direction to the respondents to pay 75% of last drawn wages as subsistence allowance to the petitioner, with effect from 12.05.2010, in the scale of pay applicable to the post of Assistant Executive Engineer. The respondents are also directed to pay arrears within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.