

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.28597 of 2017

K.Sivasubramaniam Spinners Pvt.Ltd.,
represented by Whole Time Director
Nalligoundanpalayam Pirivu
Thekkalur, Pudupalayam (Po)
Avanashi (Tk)
Pin: 641 654

.. Petitioner

-vs-

1. Deputy Commissioner of Labour/
Appellate Authority
Coimbatore (Po) & (Dt)

2. Assistant Commissioner of Labour/
Controlling Authority
Coimbatore (Po) & (Dt)

3. P.Nandagopal

.. Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorari, to call for the
records of the first respondent relating to the order dated
31.07.2017 in APSA No.4/2016 and quash the same.

For Petitioner :: Mr.P.Anbarasan

For Respondents सत्यमेव जयते :: Mr.R.A.S.Senthilvel
Additional Government Pleader
for R1 & 2

ORDER

This writ petition has been filed challenging the
correctness of the impugned order passed by the Deputy
Commissioner of Labour/Appellate Authority, Coimbatore District
directing the petitioner to pay the subsistence allowance from
4.8.2013 to 31.12.2014 to the third respondent.

2. Learned counsel for the petitioner submitted that the third respondent, having suffered an order of suspension on 2.8.2013, has gone to another place and gainfully employed. Therefore, as per Section 3(2) of the Tamil Nadu Payment of Subsistence Allowance Act, which says that an employee shall not be entitled to receive any subsistence allowance if he accepts any other employment during the period of his suspension in any establishment other than the establishment where he had been working immediately before his suspension, the third respondent is not entitled to get the subsistence allowance. He also submitted that a notice was also issued by the petitioner on 27.11.2013 asking the third respondent to give his explanation as to why he should be paid the subsistence allowance when he was gainfully employed in other place, for which the third respondent has not given any reply. That shows that he was gainfully employed.

3. But this Court is unable to appreciate the contentions made by the learned counsel for the petitioner. A careful reading of the notice dated 27.11.2013 issued by the petitioner to the third respondent does not show from what period he was employed in any other establishment. Simply the said notice dated 27.11.2013 says that he was employed with another individual. Neither the name of the establishment nor the period of gainful employment has been mentioned. Therefore, the impugned order passed by the first respondent directing the petitioner to pay the subsistence allowance to the third respondent cannot be found fault with. Accordingly, the writ petition stands dismissed. Consequently, W.M.P.No.30763 of 2017 is also dismissed. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

ss

To

1. The Deputy Commissioner of Labour/
Appellate Authority
Coimbatore (Po) & (Dt)

WEB COPY

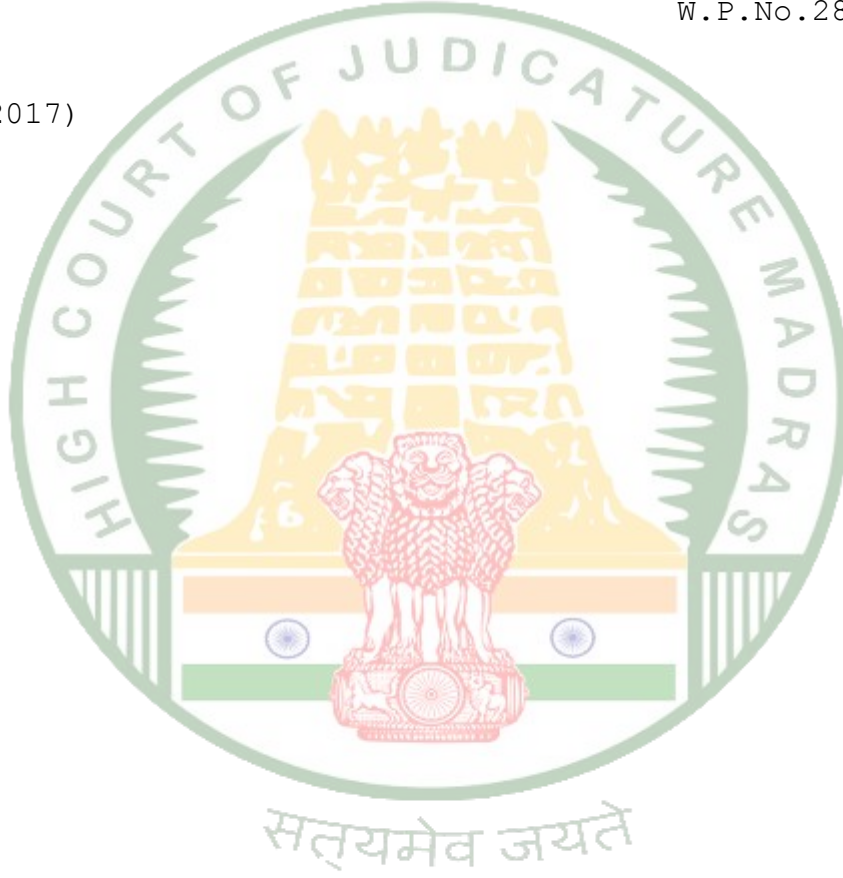
2. The Assistant Commissioner of Labour/
Controlling Authority
Coimbatore (Po) & (Dt)

+1cc to Mr.P.ANBARASAN Advocate, S.R.No. 79411/17

+1cc to the Government Pleader, S.R.No. 79920/17

W.P.No.28597 of 2017

TR(22/11/2017)



WEB COPY