

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.NO.23305 of 2004
and
W.P.M.P.NO.28212 of 2004

Tamilnadu Minerals Limited
Madhepalli Division, Kanimedu,
Kandhirupam (Post)
Krishnagiri, Dharmapuri District. Petitioner

Vs

1.The Assistant Commissioner of Labour
(Competent authority) under the Tamil
Nadu Payment of Subsistence Allowance
Act, 1981), Salem-7.

2. M.Murugesan Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari
calling for the records of the first respondent in his
proceedings P.S.A.No.45 of 2002 and quash the order dated
20.04.2004.

For Petitioner : No appearance

For Respondents : Mr.K.K.Ramesh, Government Advocate-for R1
Mr.K.Gandhi Kumar - for R2

O R D E R

This writ petition has been filed by the management,
challenging the order passed in P.S.A.No.45 of 2002 dated
20.04.2004, directing the management to pay a sum of Rs.12,550/-
as subsistence allowance to the second respondent.

2. The second respondent was appointed as Junior Assistant
on 02.05.1998 and thereafter promoted as Assistant. While
working as Assistant, on a charge of theft of diamond wires
worth Rs.20 lakhs, he was placed under suspension. Thereafter,
enquiry was conducted. The second respondent filed an
application in P.S.A.No.45 of 2002 on the file of the first

respondent / Assistant Commissioner of Labour, who is the competent authority under the Payment of Subsistence Allowance Act, 1981, claiming subsistence allowance. The application, after contest, was ordered in favour of the second respondent.

3. The main contentions raised by the management was that (i) the provisions of the Payment of Subsistence Allowance Act, 1981, are not applicable to the petitioner institution and (ii) the second respondent was guilty of prolonging the enquiry proceedings and therefore he was not entitled to subsistence allowance. These two contentions were not accepted by the first respondent and the impugned order was passed, directing the management to pay a sum of Rs.12,550/- as subsistence allowance. This order is under challenge in this writ petition.

4. Nobody has represented the petitioner on the previous hearing. Learned counsel, who had earlier appeared for the petitioner, submitted that they are no longer appearing for the petitioner and have returned the vakalat. Therefore, the petitioner's name was printed in the cause list.

5. A perusal of the impugned order would go to show that (a) there is a factual finding that there was no delay in the enquiry proceedings on account of the conduct of the workman (b) the issue of applicability of the Payment of Subsistence Allowance Act to the petitioner's institution, was dealt with, and relying upon the decision reported in 1 LLJ 85 (Corporation of Madurai Vs Deputy Commissioner of Labour, Madurai), wherein it was held that the Act will be applicable to the petitioner's institution.

6. Under the circumstances, the appeal filed by the management challenging the order of the first respondent directing payment of subsistence allowance to the second respondent is liable to be dismissed and accordingly the writ petition stands dismissed and the impugned order is upheld. No costs. Consequently, connected W.M.P. is closed.

Sd/-

Assistant Registrar(CS-VII)

//True copy//

Sub Assistant Registrar

kst

To

The Assistant Commissioner of Labour

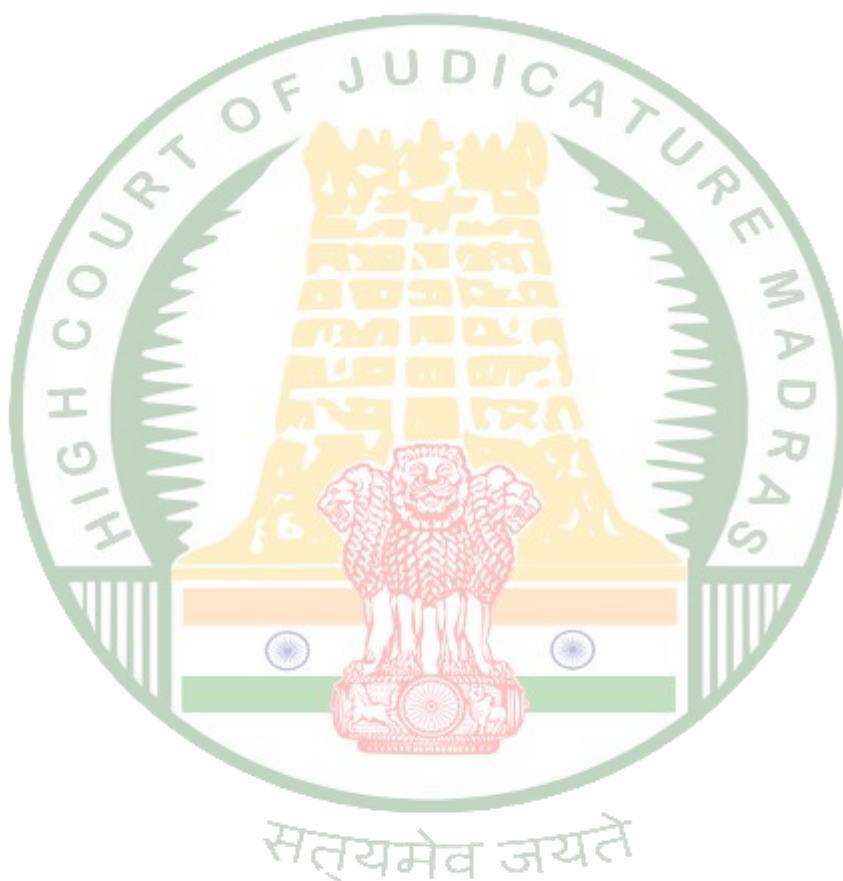
(Competent authority) under the Tamil Nadu Payment of Subsistence Allowance Act, 1981), Salem-7.

+1cc to Government Pleader SR.No.68177

W.P.No.23305 of 2004

SPD (CO)

GMV (29/10/2018)



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