

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2018

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

Writ Petition No.28125 of 2017

and

W.M.P.No.30215 of 2017

and

W.M.P.No.19814 of 2018

The Management
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai - 600 002.Petitioner

vs.

1. The Assistant Commissioner of Labour-II
cum Authority acting under the provision
of the Payment of Subsistence Act, 1981
D.M.S.Complex, Teynampet,
Chennai - 600 006.

2. R.NarayananRespondents

Writ Petition filed under section 226 of the
constitution to issue a Writ of Certiorari to call for the
records of the common order passed by the 1st respondent in
P.S.A.4/14 dated 25.04.2017 and quash the same.

For Petitioner : Ms.S.S.Rajini Ramadoss

For Respondents: Mr.I.Sathish,
Additional Government Pleader for R1
Mr.S.T.Varadarajulu for R2.

WEB COPY
O R D E R

This writ petition is filed challenging the order of the
first respondent dated 25.04.2017, ordering payment of
subsistence allowance to the petitioner to the tune of
Rs.3,98,811/- during the period of suspension.

2. It is the contention of the petitioner Management that the order of suspension dated 16.10.2013 was revoked on 16.11.2013 and therefore, the petitioner is not entitled to subsistence allowance for the period from 17.10.2013 to 16.03.2015.

3. On the other hand, it is contended by the 2nd respondent workmen that the revocation of the suspension was never communicated to him and therefore, he was not attending the duty and thus, the subsistence allowance granted by the first respondent for the period from 17.10.2013 to 16.03.2015 is in order.

4. It is evident from the above said contention of the parties that there is a disputed question of fact with regard to the period of suspension. This Court is not inclined to go into such disputed question of fact and decide the matter, especially, when there is an appeal remedy available against the order of the first respondent before the Deputy Commissioner of Labour as contemplated under Rule 5A of the Tamil Nadu Payment of Subsistence Allowance Rules, 1981. Therefore, it is for the petitioner Management to canvass all the points raised in this writ petition by filing such appeal before the said authority who is also the fact finding authority, as this Court is not expressing any view on the merits of the contention raised by both parties.

5. Accordingly, without expressing any view, this Writ Petition is disposed of by granting liberty to the petitioner to file such appeal before the concerned Appellate Authority within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed by complying with other statutory requirements, the Appellate Authority shall consider such appeal and pass orders on the same on merits and in accordance with law within a period of six weeks thereafter, after hearing both parties. No costs. Consequently, connected miscellaneous petition is closed.

vsi

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Commissioner of Labour-II
cum Authority acting under the provision
of the Payment of Subsistence Act,1981
D.M.S.Complex, Teynampet,
Chennai - 600 006.

2.The Management
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai - 600 002.

+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No.84706

W.P.No.28125 of 2017

SS(CO)
KAK(20/12/2018)



WEB COPY