



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.22201 of 2023
and WMP.No.21593 of 2023

The Management,
Tamilnadu Arasu Pokkuvasathu
Azhagam (kovai Region) Ltd.,
37, Mettupallayam Road,
Coimbatore – 641 043.

... Petitioner

Vs

A.Duraisamy

... Respondent

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 order passed by the Additional Labour Court, Coimbatore pertaining to its proceedings in C.P. No.20 of 2022 dated 08.11.2022 and quash the same.

For Petitioner : Mr.A.Vinothraj
For Respondents : M/s.H.Nandhini

ORDER

This petition has been filed to quash the order passed in C.P.No.20 of 2022 dated 08.11.2022 on the file of the Additional Labour Court,



WEB COPY

Coimbatore, wherein the respondent herein has filed computation petition and the same was allowed. Challenging the same, the Petitioner/Management has been filed this writ petition.

2. The learned counsel appearing for the writ petitioner would submit that the respondent was working as a driver at Udumalpet Depot and he was engaged as a driver on 05.05.2021 in the bus bearing Registration No.TN 39 N 0346 running between Erode to Udumalpet. While so, he was dashed against the two wheeler due to his rash and negligent driving, as a result of which, the rider of the two-wheeler died. The above said act of the respondent amounts to misconduct under Section 14(a)(d) of the Certified Standing Orders. Therefore, the respondent was placed under suspension with effect from 25.09.2021. In the meantime, he was permitted to join duty through the order daed 25.10.2021 without prejudice to the disciplinary enquiry, and the subsistence allowance for the above said period from 25.09.2021 to 24.10.2021 was duly paid to the respondent. Since the respondent had not turned up for duty, the order of revocation of suspension was communicated over phone and also affixed on the notice board of the depot. Thereafter, the respondent failed to report for duty from 25.10.2021 to 19.03.2022. Therefore, a charge memo dated 24.11.2021



was issued to the respondent for the above said unauthorised absence.

WEB COPY

During pending a disciplinary enquiry, he was permitted to join duty and reported for duty from 19.03.2022. Thereafter, he approached the Additional Labour Court, Coimbatore by filing a Computation Petition in C.P.No.20 of 2022 claiming an amount of Rs.32,157.55/- towards subsistence allowance for the period from 25.10.2021 to 07.01.2022.

3. The Labour Court without considering the unauthorised absence inspite of the suspension revocation through an order dated 18.10.2021, computed the subsistence allowance from 24.10.2021 to 07.01.2022. Before the Labour Court, on the side of the writ petitioner, one witness was examined and seven documents were marked. On the side of the workmen, one witness was examined and 31 documents were marked. The Labour Court, without considering the evidence adduced by the writ petitioner, erroneously calculated the subsistence allowance for the period of unauthorised absence from 25.10.2021 to 07.01.2022. Therefore, the order passed by the Labour Court is liable to be quashed.

4. The learned counsel appearing for the respondent would submit that the petitioner/management suspended the petitioner from 25.09.2021,



WEB COPY

and thereafter, a charge memo was issued on 24.11.2021, which was served to him on 09.12.2021. No revocation of the suspension order has been received by the respondent and he is entitled to subsistence allowance as per the provisions of Tamil Nadu Payment of Subsistence Allowance Act. The writ petitioner had paid the subsistence allowance for the suspended period of 25.09.2021 to 24.10.2021. The petitioner's suspension period is calculated to the tune of 105 days and his last drawn pay was Rs.36,752/-. He was suspended on 25.09.2021 and subsistence allowance of Rs.15,492/- was paid from 25.09.2021 to 24.10.2021. Therefore, there is due of 75 days for the period from 25.10.2021 to 07.01.2022. The respondent is entitled to 50% of subsistence allowance for the first 90 days. Thereafter, he is entitled to 75% of subsistence allowance with effect from the date of 24.11.2021. Therefore, he is entitled to a sum of Rs.18,375.50 at the rate of 50% for 60 days from 25.10.2021 to 23.12.2021, and for the remaining period from 24.12.2021 to 07.01.2022 for 15 days, he is entitled to 75% of subsistence allowances of Rs.13,781.85. In total, he is entitled to Rs.32,157.55. Therefore, he filed a petition for the above said subsistence allowance before the Labour Court and the Labour Court also correctly computed the amount. The respondent was not served with a copy of the revocation order of suspension for joining duty as availed by the writ



petitioner. Therefore, the order passed by the Labour Court is in order and the present writ petition is liable to be dismissed.

5. This Court heard both sides and perused the materials available on record.

6. It is an admitted fact that the petitioner was suspended on 25.09.2021, and he joined duty on 19.03.2022. Accordingly to the writ petitioner, the suspension order was revoked through an order dated 18.10.2021, and the respondent was permitted to join duty on 25.10.2021 and the same was communicated to the respondent, and the said order was also affixed on the notice board. It is also an admitted fact that the notice was not served directly to the respondent. There are no records produced by the writ petitioner/management, that an order dated 18.10.2021 permitted the respondent to join duty from 25.10.2021 was served to the respondent. Even according to the writ petitioner, the above said revocation of suspension order was affixed on the notice board and also communicated over the phone to the respondent, however, to substantiate the contention, no documents were produced by the petitioner/management.



Once the employee was suspended, it is the duty of the management to serve notice on him by informing him of the revocation of suspension order.

7. There is no dispute that the respondent is entitled to subsistence allowance, and the management also paid subsistence allowance till 24.10.2021. The dispute is in respect of remaining period from 25.10.2021 to 07.01.2022. In the absence of any proof to show that the respondent was served notice to join duty after the revocation of the suspension order, it is not appropriate to hold that the respondent is entitled to subsistence allowance till 24.10.2021. Therefore, the Labour Court after elaborate discussion computed the subsistence allowances from 25.10.2021 to 24.12.2021 at the rate of 50% for a sum of Rs.18,375.70, and for the remaining period from 24.10.2021 to 07.01.2022, he calculated 75% of subsistence allowance of Rs.13,781.85, in total computed a sum of Rs.32,157.55. Therefore, the order passed by the Labour Court in computing the subsistence allowance is in accordance with law and there is no illegality or perversity in computing the subsistence allowance. Therefore, the order passed by the Labour Court does not warrant any interference.



WEB COPY

8. In view of the above said discussion, this Court is of the opinion that this writ petition has no merits and deserves to be dismissed.

9. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

23.06.2025

drl



WEB COPY



8

P.DHANABAL, J.,

drl

W.P.No.22201 of 2023
and WMP.No.21593 of 2023

23.06.2025