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W.P. No.16512 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.16512 of 2022

K. Kothandam S/o. Kariyan .. Petitioner

vs.

1.The Joint Commissioner of Labour,
(The Appellate Authority under PSA Act 1981)
DMS Complex, Teynampet,
Chennai-600 006.

2. The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai - 600 002. .. Respondents

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st respondent PSA Appeal No.2 of 2018 dated 02.09.2018 and quash the same and consequently issue direction to the 2nd respondent to pay the Subsistence Allowance to the petitioner as per the order made in PSA Case No.26 of 2017 vide order dated 02.06.2017.

For Petitioner : Mr. D. Bharathy

For Respondents : Mr. E.P. Senniyanigiri,



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Government Advocate [for R1]

Mr.A. Vinothraj [for R2]

ORDER

This Writ petition has been filed by the petitioner to quash the order passed by the 1st respondent in PSA Appeal No.2 of 2018 dated 02.09.2018 and to direct the 2nd respondent to pay the Subsistence Allowance to the petitioner as per the order made in PSA Case No.26 of 2017 vide order dated 02.06.2017.

2. The learned counsel appearing for the Writ petitioner would submit that the petitioner joined in the 2nd respondent Corporation as a 'Conductor' and he was suspended from service on 19.07.2012. Pending the above said suspension, the 2nd respondent failed to pay Subsistence Allowance to the petitioner, thereby he filed a petition in PSA Case No.26 of 2017 before the Assistant Commissioner of Labour and the same was allowed vide order dated 02.06.2017 by directing the 2nd respondent Corporation to pay the Subsistence Allowance to the petitioner to the tune of Rs.25,288/- for the period from 21.07.2012 to 28.09.2012. The 2nd respondent failed to prove that they have issued an order for reinstatement of the petitioner and thereby, the Assistant Commissioner of Labour passed an order to pay the Subsistence



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Allowance to the petitioner. The said order was challenged by the 2nd respondent before the 1st respondent in PSA Appeal No.2 of 2018 and the same was allowed by the 1st respondent without appreciating the real facts. The 2nd respondent with malafide intention and to victimise the petitioner, refused to grant Subsistence Allowance and the same was not considered by the 1st respondent. The 1st respondent erroneously set aside the order passed by the Assistant Commissioner of Labour by directing the 2nd respondent to pay Subsistence Allowance to the petitioner for the period from 21.07.2012 to 28.09.2012. Therefore, the impugned order passed by the 1st respondent is liable to be set aside.

3. The learned counsel appearing for the 2nd respondent would submit that the petitioner was suspended from 19.07.2012 and thereafter, they revoked the suspension order and directed the petitioner to join duty through an order dated 23.07.2012. The petitioner was directed to join duty on 24.07.2012. But the petitioner did not join duty. There was a typographical error in the suspension revocation letter dated 23.07.2012. The date of suspension of the petitioner was wrongly mentioned as 18.07.2012 instead of 19.07.2012. Therefore, the 2nd respondent Corporation issued an another letter dated 21.09.2012, indicating that the typographical in the date of

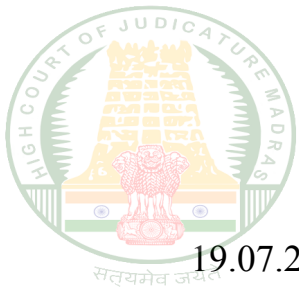


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suspension as 18.07.2012, may be read as 19.07.2012. The petitioner had joined duty only on 28.09.2012. Therefore, the petitioner himself absented duty without joining the duty inspite of receipt of suspension revocation letter from the 2nd respondent. The Assistant Commissioner of Labour passed an erroneous order by directing the 2nd respondent to pay Subsistence Allowance to the petitioner, without considering that the petitioner had not joined duty even after the suspension was revoked. Therefore, after the date of revocation of suspension letter, the petitioner is not entitled to any subsistence allowance. The Appellate Authority has correctly appreciated the facts and set aside the order passed by the Assistant Commissioner of Labour. Therefore, the order passed by the 1st respondent / Joint Commissioner of Labour is in order and the present Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the petitioner was suspended from service by the 2nd respondent from 19.07.2012. Thereafter, the 2nd respondent revoked the suspension through an order dated 23.07.2012. But the petitioner denied the receipt of the above said letter and he joined duty only on 28.09.2012. According to the petitioner, the suspension revocation letter was issued as if the petitioner was suspended on 18.07.2012 instead of



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19.07.2012. He nowhere stated about the date of receipt of revocation of suspension order. Per contra, in the joining letter, he stated about the date of suspension was wrongly mentioned as 18.07.2012 instead of 19.07.2012 and he requested to permit him to join duty on 28.09.2012. Once the 2nd respondent revoked the suspension, thereafter, it is the duty of the petitioner to join duty, but he did not join duty. Therefore, he is not entitled for the subsistence allowance for the period from the date of order of revocation of suspension.

6. The Assistant Commissioner of Labour, without considering that the suspension was revoked and the petitioner has not stated anything about the non-receipt of the suspension revocation order in the joining letter, erroneously directed the 2nd respondent Corporation to pay Subsistence Allowance for a period from 24.07.2012 to 28.09.2012. Whereas the Appellate Authority, after taking into consideration the suspension was revoked on 23.07.2012 and inspite of that, the petitioner has not joined duty, has correctly come to a conclusion that the petitioner is not entitled to the Subsistence Allowance for the period from the date of order of revocation of suspension till the date of joining of the petitioner. There is no dispute that from the date of suspension of the petitioner till the date of revocation of



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suspension i.e, from 19.07.2012 to 23.07.2012, the Subsistence Allowance was paid to the petitioner. Therefore, the Appellate Authority has passed a reasoned order based on the evidence, thereby, there is no perversity or illegality found in the order passed by the 1st respondent.

7. In view of the above discussions, this Court is of the opinion that this Writ petition has no merits and deserves to be dismissed.

8. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

25.06.2025

Index : Yes/No
Speaking order/non-speaking order
mjs

P. DHANABAL, J.,

mjs

To

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(The Appellate Authority under PSA Act 1981)
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2. The Managing Director,
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