



WEB COPY



W.A.No.3765 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE R. SURESH KUMAR
AND
THE HONOURABLE MR.JUSTICE C. SARAVANAN

W.A.No.3765 of 2024

The District Collector
Tirupur District, Tirupur – 641 604. .. Appellant

Vs.

1. A.Anandaraj
2. Commissioner
Gudimangalam Panchayat Union
Pedappampatti Post, Tirupur District.
3. Commissioner
Kundadam Panchayat, Tirupur District. .. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent, against the order dated 21.03.2024 in W.P.No.7539 of 2024.

For the Appellant : Mr.M.Venkateswaran
Special Government Pleader

JUDGMENT

(Judgment of the Court was authored by R.SURESH KUMAR, J.)

This intra-Court appeal has been directed against the order passed by the Writ Court dated 21.03.2024 made in W.P.No.7539 of 2024.



W.A.No.3765 of 2024

WEB COPY

2. The first respondent/writ petitioner was appointed as a Noon Meal Organizer and while he was working in that capacity, a criminal case was lodged against him and a First Information Report was registered in Crime No.17 of 2010. The same was taken on the file of the Judicial Magistrate, Udumalpet, as C.C.No.285 of 2012. Because of the criminal case that was pending against him, he was put under judicial custody as a pretrial prisoner for sometime and in view of the deeming provisions, he was suspended from service by the order of suspension dated 02.11.2010 by the appellant employer.

3. Subsequently, the criminal case ended in acquittal. After getting acquitted, the first respondent/writ petitioner made a representation seeking reinstatement with all service benefits and since the said request was not considered, he filed a writ petition in W.P.No.31144 of 2018, where directions were issued by this Court on 26.11.2018 to consider the plea of the first respondent/writ petitioner. Pursuant to the said order passed by the Writ Court, the first respondent/writ petitioner was reinstated into service by the order dated 17.06.2019.



W.A.No.3765 of 2024

WEB COPY

4. Then, even though the first respondent/writ petitioner was reinstated into service on 17.06.2019, he was not paid any backwages nor subsistence allowance for the entire period of suspension, i.e. from 02.11.2010 till 17.06.2019. Therefore, in order to get such benefits, once again, the first respondent/writ petitioner filed a writ petition in W.P.No.11019 of 2020, where also directions were issued by this Court, pursuant to which, the plea of the first respondent/writ petitioner, though was considered, was rejected by the order dated 30.01.2024, which was under challenge before this Court in W.P.No.7539 of 2024.

5. The learned Single Judge, heard the matter and has gone into the Government Order in G.O.Ms.No.151/SWD-1/2—3-1, Social Welfare and Noon-Meal Programme dated 11.08.2003 and the earlier orders passed by this Court in similar circumstances, where it has been held that even though TNCS(D&A) Rules are not strictly applicable to the appellant in the concerned case, he is entitled for subsistence allowance because he is still retained in service and his service has not been terminated.

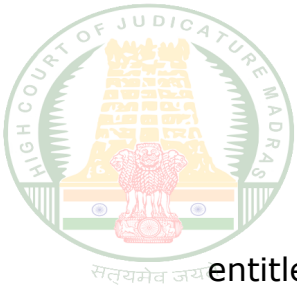


W.A.No.3765 of 2024

WEB COPY

6. Taking clue from the said view taken by this Court earlier, the learned Single Judge has come to the conclusion that the first respondent/writ petitioner was entitled to get subsistence allowance during the suspension period, as the criminal case which was the only reason he was placed under suspension since has ended in acquittal and no other Departmental enquiry since has been made and based on which he was reinstated without any condition, the employee was entitled to get subsistence allowance, even though it was taken as a defense by the appellant Department, that is the employer, that the first respondent/writ petitioner has been working as a Noon Meal Organizer on part-time basis, therefore he is not entitled for subsistence allowance nor backwages.

7. We have heard *Mr.M.Venkateswaran*, learned Special Government Pleader for the appellant, who would submit that insofar as the post of Noon Meal Organizer is concerned, it is not a regular Government job and therefore, the benefits available to the Government employees may not be available to the Noon Meal Organizer. Therefore, for the period for which he has been out of service, no subsistence allowance could be granted due to the criminal case pending against him and he cannot claim any right over such period as it is a non-duty period, for which he is not



W.A.No.3765 of 2024

WEB COPY

entitled either for salary or subsistence allowance. However, this position has not been considered in a proper perspective by the learned Single Judge while disposing the writ petition. Hence, he seeks indulgence of this Court.

8. We have considered the said submissions made by the learned Special Government Pleader and have perused the materials placed before this Court.

9. As has been rightly held by the learned Single Judge through the impugned order, the Noon Meal Organizer is also entitled to get subsistence allowance. Moreover, the Noon Meal Organizer post is a permanent post, where Special Time Scale of Pay has already been awarded by the Government. When that being the position, if at all the Noon Meal Organizer has been suspended for a long period, because of the pendency of the criminal case which has ended in acquittal, the Rule position would be that once he has been reinstated, he is entitled to get reinstatement with backwages, that is back-salary.

10. However, by invoking the Rule of “No Work, No Pay”, even



W.A.No.3765 of 2024

WEB COPY

assuming that he is not entitled for getting full salary as backwages, he is otherwise entitled to get at least subsistence allowance, which cannot be denied to any employee, much less, the Noon Meal Organizer.

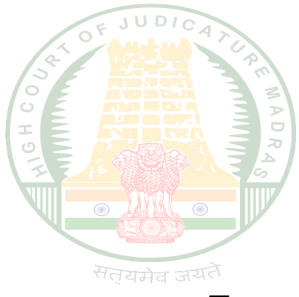
11. Therefore, looking from any angle, the denial of even subsistence allowance to the first respondent/writ petitioner during the suspension period cannot be accepted and therefore, to that extent, allowing the said writ petition is to be approved.

12. Resultantly, this appeal fails and is liable to be dismissed. Hence, the present appeal stands dismissed. However, there shall be no order as to costs. Consequently, C.M.P.No.29643 of 2024 is closed.

(R.S.K., J.) (C.S.N, J)
03.01.2025

Neutral Citation:Yes/No

drm



W.A.No.3765 of 2024

WEB COPY

- To
1. Commissioner
Gudimangalam Panchayat Union
Pedappampatti Post, Tirupur District.
 2. Commissioner
Kundadam Panchayat, Tirupur District.



WEB COPY



W.A.No.3765 of 2024

R. SURESH KUMAR, J.
AND
C. SARAVANAN, J.
(drm)

W.A.No.3765 of 2024

03.01.2025