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W.A.No.3036 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2025

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE R.SAKTHIVEL

W.A.No.3036 of 2025
and CMP.No.24572 of 2025

The Management,
P.E.65, Modakkuruchi Circle Teachers and
Public Servants Co-operative Thrift
and Credit Society Ltd.,
Rep. By its Administrator,
Modakkurichi-638 104
Erode District.

... Appellant

Vs.

1.The Joint Commissioner of Labour
Controlling Authority appointed under the
Payment of Subsistence Allowance Act
O/o.Joint Commissioner of Labour
Erode, Erode District.

2.C.Periyasamy

... Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying
to set aside the order passed in W.P.No.21238 of 2022 dated 03.07.2025.



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For Appellant : Mr.M.S.Palaniswamy
For Respondents : Mr.UM.Ravichandran
Special Government Pleader for R1
Mr.S.Sathiaseelan for R2

JUDGMENT

(Judgment of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order passed in W.P.No.21238 of 2022 dated 03.07.2025.

2. When the second respondent herein was due to retire on 31.01.2015, he was placed under suspension on 30.01.2015, in contemplation of disciplinary action. Since his subsistence allowance fell in arrears, he had preferred a petition before the Authority under the Tamil Nadu Payment of Subsistence Allowance Act, 1981 (hereinafter referred to 'the Act'), claiming the allowance for the period between 30.01.2015 to 30.10.2016. The Authority, by an order dated 22.05.2017 in PSA.No.8 of 2016 had computed the arrears of subsistence allowance for the said period at Rs.11,11,635/-. Challenging the said order of the Authority, the Management had preferred a Writ Petition in W.P.No.31688 of 2017,



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which was dismissed on 17.10.2022. The further Intra Court Appeal preferred by the Management in W.A.No.2683 of 2022 was also dismissed on 15.12.2022. In this background, the order of suspension against the second respondent was revoked on 16.12.2022.

3. After a Recovery Certificate dated 06.11.2017 was issued for the arrears of subsistence allowance, the second respondent herein had filed a Writ Petition in W.P.No.21574 of 2023, seeking for a direction to the Revenue Authorities for recovering the arrears of subsistence allowance. The learned Single Judge vide order dated 21.07.2023 had disposed of the Writ Petition with the following direction:

“6. Considering the limited request made by the learned counsel for the petitioner, this Court, without going into the merits of the matter, directs the first respondent to conclude the Revenue Recovery Proceedings initiated by the third respondent dated 06.11.2017 and pass appropriate orders, on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioner as well as fourth respondent.”



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4. As against the said order, another Intra Court Appeal was filed by the Management in W.A.No.1947 of 2024, which was also dismissed on 09.08.2024.

5. When a Contempt Petition was preferred in Cont.P.No.334 of 2024 for wilful disobedience of the order dated 21.07.2023, the Management had reported that a sum of Rs.11,11,635/-, was fully paid to the second respondent and recording the same, the petition was closed on 15.03.2024.

6. In this background, the second respondent herein preferred another application in P.S.A.No.3 of 2021 before the Authority under the Payment of Subsistence Act, claiming for the arrears of subsistence allowance for the period between 01.11.2016 to 30.11.2020. By an order dated 07.09.2021, the original Authority had rejected the petitioner's claim on the ground that he had not pleaded that he was not gainfully employed during the period of suspension. The respondent had preferred an appeal before the first respondent herein in A.P.S.A.No.4 of 2021, which was allowed on 03.06.2022, by directing the Management to pay a sum of



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Rs.29,05,063/-. The challenge to the said order of the Authority before the Writ Court in W.P.No.21328 of 2022 was dismissed on 03.07.2025. As against which, the present Writ Appeal has been preferred.

7. Mr.S.Palanisawamy, learned counsel for the appellant / Management would submit that the provisions of the Payment of Subsistence Allowance Act will not cover the post of Secretary, which falls under the common cadre and therefore, the Authority ought not to have adjudicated the second respondent's claim at all.

8. Per contra, Mr.S.Sathiaseelan, the learned counsel appearing for the second respondent / Caveator would submit that the appellant herein had not approached this Court with clean hands, but on the other hand had suppressed various other material facts in this case. According to him, the ground of maintainability were all raised during the first round of litigation, when the original Authority had adjudicated the claim for payment of arrears of subsistence allowance for the period between 30.01.2015 to 30.10.2016, as well as before this Court, which objections were has also rejected. In this background, he would state that the



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appellant is estopped from raising all these grounds, for which purpose, he placed reliance on the decision of the Hon'ble Supreme Court in the cases of ***Sunderabai and another vs. Devaji***, reported in [(1952) 2 SCC 92] and ***Joint Action Committee of Air Line Pilots' Association of India (ALPAI) and others vs. Director General of Civil Aviation and others***, reported in [(2011) 5 SCC 435].

9. Earlier, when the Authority under the Act had computed the arrears of subsistence allowance for the period between 30.01.2015 to 30.10.2016, in its proceedings in P.S.A.No.8 of 2016 dated 22.05.2017, the amount determined therein became subject matter for challenge before this Court, and ultimately, the appellant had admitted to the claim and had also fully paid the amount computed therein to the second respondent herein. The present claim is for the arrears of subsistence allowance for the period between 01.11.2016 to 30.11.2020, which was also computed by the Authority in favour of the second respondent.

10. Having admitted to the second respondent's entitlement to receive the subsistence allowance for the earlier period and also having



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paid the same, we fail to understand as to how the appellant would now be entitled to raise their objection, more particularly, on a ground of maintainability of the proceedings before the statutory Authority, after having failed to sustain such objections both before the Authority, as well as before this Court in the earlier round of litigation.

11. It is the settled principle that no person can approbate and reprobate by conduct or action, as the rule of estoppel prohibits the same, which is a rule in equity. In other words, taking inconsistent pleas and blowing hot and cold in a series of litigations is impermissible by application of the rule of estoppel. This legal proposition has been time and again reiterated by the Constitutional Courts in several decisions, including the decisions in **Sunderabai** and **ALPAI** (*supra*), referred to by the learned counsel for the second respondent herein. Since the very basis of the objections of the appellant is legally flawed, and as the appellant has unnecessarily delayed the payment of the computed arrears of the subsistence allowance payable to the second respondent for the past four years, we deem it appropriate that they be subjected to payment of exemplary cost.



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12. Accordingly, the Writ Appeal stands dismissed with a direction to the appellant / Management to pay a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as exemplary cost to the second respondent herein.

13. In consequence to the dismissal of the Writ Appeal, the appellant shall forthwith pay the sum of Rs.29,05,063/-, which is the amount payable under the order passed in A.P.S.A.No.4 of 2021 dated 03.06.2022, together with interest at the rate of 9% per annum from 07.09.2021, till the date of actual payment, within a period of two (2) weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [R.S.V.,J]

22.10.2025

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

The Joint Commissioner of Labour
Controlling Authority appointed under the
Payment of Subsistence Allowance Act
O/o.Joint Commissioner of Labour
Erode, Erode District.



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