

WP(MD)No.9648 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.9648 of 2019
and
W.M.P.(MD)No.7581 of 2019

The District Manager,
TASMAC, Konam,
Nagercoil,
Kanyakumari District.

... Petitioner

versus

1. The Assistant Commissioner of Labour,
Tirunelveli.

2. M.Ramesh

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the impugned proceedings issued by the first respondent in his proceedings in PSA (M) 2/17 in PSA 1/15 dated 13.11.2018 and quash the same.

For Petitioner	: Mr.Sivanesan
For R1	: Mr.S.Vinodh, Government Advocate
For R2	: No appearance



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ORDER

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This writ petition has been filed by TASMAC challenging the dismissal order passed by the first respondent/the Assistant Commissioner of Labour, Tirunelveli, in PSA (M) 2/17 in PSA 1/15, dated 13.11.2018.

2. The second respondent, who was an employee of the TASMAC Shop situated at Ramanpudur, Nagercoil, has committed certain mischief in the TASMAC Bar and the same was detected during an inspection conducted by the Prohibition and Enforcement Wing and therefore, he was placed under suspension on 05.06.2011. The second respondent has filed an application before the Assistant Commissioner of Labour, Tirunelveli, in PSA No.1/2015, seeking subsistence allowance for the suspension period. The petitioner Management has not defended the said application. Therefore, the said application was allowed and an *ex parte* order was passed with a direction to the petitioner Management to pay a sum of Rs.2,29,275/- as subsistence allowance to the second respondent. The petitioner TASMAC has filed an application to set aside the *ex parte* order with a condone delay application in PSA(M)No. 2/2018 in PSA No. 1/15. The said application was dismissed by the first respondent by order dated 13.11.2018. Aggrieved over the same, the TASMAC has filed this writ



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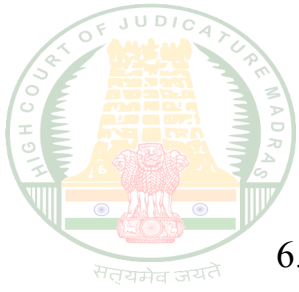
petition.

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3. The petitioner has taken a plea that this issue has been handled by a Junior Assistant, by name, one Jeevankumar and he failed to engage a counsel to follow up the case. Therefore, an *ex parte* order was passed on 28.07.2016. The said Junior Assistant also resigned his job from 22.09.2016. Therefore, they were not aware of the *ex parte* order passed as against the TASMAL and immediately after knowing about the *ex parte* order, they have taken initiative to file an application to set aside the *ex parte* order. However, by referring the limitation, as provided under Section 5(7) of the Tamil Nadu Payment of Subsistence Allowance Rules, 1981, the first respondent has rejected the application filed by the petitioner in PSA(M)No.2 of 2018 in PSA No.1 of 2015.

4. Though notice was served on the second respondent and a counsel had also entered appearance on behalf of the second respondent, there is no representation for the second respondent.

5. This Court considered the submissions of the learned counsel appearing for the petitioner and also perused the materials placed on record.



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6. Admittedly, an *ex parte* order was passed by the Assistant Commissioner of Labour, Tirunelveli, in PSA No.1 of 2015 dated 28.07.2016. The petitioner TASMAL has filed an application in PSA(M)No.2 of 2017 to set aside the *ex parte* order dated 28.07.2016. In that application, the petitioner has assigned the reasons that one Jeevankumar, the Junior Assistant was in-charge of this issue and he has not followed the case properly and he has also resigned his job on 22.09.2016 and therefore, they were not aware of the *ex parte* order.

7. Since the petitioner has assigned valid reasons for the delay in filing the application to set aside the *ex parte* order dated 28.07.2016, this Court is inclined to allow this writ petition.

8. Accordingly, this writ petition is allowed and the impugned order dated 13.11.2018 passed by the first respondent in his proceedings in PSA (M)No. 2/17 in PSA No. 1/15 is hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
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B.PUGALENDHI,J.

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