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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.19461 of 2019
and
W.M.P(MD)No.15903 of 2019

M/s.Teddy Exports,
Tenkasi Road,
Alampatti Post,
Tirumangalam,
Madurai District.
Through its Resource Director

...Petitioner

Vs

- 1.The Appellate Authority Under the Payment of Subsistence Allowance Act (Joint Commissioner of Labour),
Bharathi Ula Road - Race Course Colony,
Madurai District.
- 2.Controlling Authority Under the Payment of Subsistence Allowance Act,
(Deputy Commissioner of Labour),
Bharathi Ula Road, Race Course Colony,
Madurai - 625 002, Madurai District.
- 3.M.Ravi

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of** Certiorarified Mandamus, to call for the records on the file of the 1st respondent herein in P.S.A.A.No.01/2019, dated 10.06.2019, received by the petitioner on 03.08.2019 awarded subsistence allowance to the tune of Rs.5,82,856/- to the 3rd respondent and to quash the same.



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For Petitioner : Mr.C.Karthikeyan for
M/s.M.R.Sreenivasan

For Respondents : M/s.G.V.Vairam Santhosh
Additional Government Pleader
for R1 & R2
Mr.S.Seenivasagam for
M/s.M.Ganesan for R3

* * * * *

ORDER

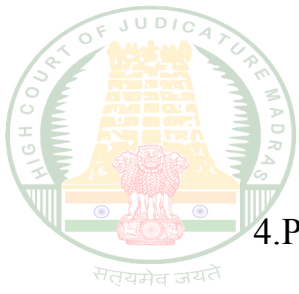
The present Writ Petition has been filed by the Management challenging the order passed by the first respondent herein reversing the order of the second respondent under the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

2.The third respondent herein was employed as a 'Creative Manager' in the petitioner company, was placed under suspension on 19.03.2012. Since subsistence allowance was not paid, he has filed an application before the second respondent seeking Payment of Subsistence allowance. The original authority had dismissed the said application on the ground that the third respondent was employed in a Managerial cadre and he was carrying out some other employment during the period of his suspension. Challenging the same, the third respondent has preferred an appeal before the first respondent. The first respondent has chosen to reverse the finding of the original authority and



thereafter, allowed the application for Payment of Subsistence Allowance. The first respondent has directed the petitioner Management to pay a sum of Rs.5,82,856/- towards subsistence allowance. Challenging the same, the present writ petition has been filed by the petitioner company.

3. According to the learned Counsel appearing for the writ petitioner, the third respondent herein was engaged in the Managerial capacity and he was allotted the work of granting leave to other employees, issuing gate pass for the vehicles and he was supervising inward and outward movement of the vehicles. He has further submitted that at the time of suspension, the third respondent was receiving a sum of Rs.18,000/-. That apart, the third respondent was carrying out some other employment during the period of his suspension. These facts have been considered by the original authority. However, the appellate authority has erroneously reversed the findings. He has further submitted that the third respondent has agreed to receive a sum of Rs.2,48,444/- as a final settlement and thereafter, the present application has been filed under the Tamil Nadu Payment of Subsistence Allowance Act, 1981. Therefore, the order of the appellate authority may be reversed.



4.Per contra, the learned Counsel appearing for the third respondent herein has submitted that as per the settled position of law, mere designation will not decide whether the particular employee is employed in the Managerial or Administrative capacity. The Management which has taken a defence that the third respondent is employed in the supervisory capacity, ought to have let in evidence to establish the fact that the third respondent was employed in the supervisory capacity having Managerial activities. When the Management has failed to establish the same, the appellate authority has rightly reversed the order of the original authority. He has further submitted that other business that was alleged to have been carried out by the third respondent herein is, that of his wife and it does not belong to the third respondent herein. In such circumstances, the order of the appellate authority may be confirmed.

5.I have considered the submissions made on either side and perused the materials available on record.

6.A perusal of the order passed by the authority concerned under the Tamil Nadu Payment of Subsistence Allowance Act, 1981, clearly reveals that the Management has not let in any oral or documentary evidence to establish the fact that the third respondent herein was engaged in the Managerial or



Supervisory capacity, even though he was receiving salary of Rs.18,000/-. The

Management has not established that the cadre of the third respondent is equivalent to that of Managerial or supervisory capacity. Merely because he was designated as a 'Creative Manager', that would not exclude the third respondent from the purview of the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

7. In view of the above said deliberations, there are no merits in the Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is also closed.

11.07.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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R.VIJAYAKUMAR, J.

RJR

To

1.The Joint Commissioner of Labour,
The Appellate Authority Under the Payment of
Subsistence Allowance Act,
Bharathi Ula Road - Race Course Colony,
Madurai District.

2.The Deputy Commissioner of Labour,
The Controlling Authority Under the Payment of
Subsistence Allowance Act, Bharathi Ula Road, Race Course Colony,
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