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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.25367 of 2019

and

W.M.P(MD)No.21924 of 2019

The Management,
Tamil Nadu State Transport Corporation Madurai Limited,
Rep. by its General Manager,
Bye Pass Road,
District Collector Office Post,
Dindigul - 624 004. ...Petitioner

Vs

- 1.The Deputy Commissioner of Labour,
Appellate Authority for Payment of Subsistence Allowance Act,
Dindigul.
- 2.The Assistant Commissioner of Labour,
Controlling Authority for Payment of Subsistence Allowance Act,
Dindigul.
- 3.P.Kuppusamy ...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in P.S.(A) I.A.No.1 of 2018, dated 23.04.2019, as illegal and quash the same.



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For Petitioner : M/s.J.Senthil Kumaraiah

For Respondents : Mr.G.V.Vairam Santhosh
Additional Government Pleader
for R1 & R2
Mr.A.Rahul for R3

* * * * *

ORDER

The Management of the Tamil Nadu State Transport Corporation, Madurai Limited, Dindigul, has filed the present writ petition challenging the order passed by the first respondent herein wherein he has rejected an application to condone the delay of 370 days in filing an appeal arising under the Tamil Nadu Payment of Subsistence Allowance Act, 1981.

2.The third respondent herein who is a reserve Driver was placed on 'put off duty'. However, subsistence allowance was not paid to him. Hence, the second respondent herein, sought subsistence allowance for the period during which he was on put off duty. The second respondent herein who is the original authority had passed an order on 26.05.2017, directing the petitioner Management to pay the subsistence allowance.

3.Challenging the said order, the petitioner Management has preferred an appeal before the first respondent on 05.09.2018. Along with the appeal, the



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Management has filed I.A.No.1 of 2018, to condone the delay of 370 days in preferring an appeal. As per the affidavit, there was a delay in getting administrative sanction for preferring an appeal and the papers of the petitioner got mixed up with other files and therefore, there was a delay in filing the appeal. This condone delay application came to be dismissed by the authority. Challenging the same, the present writ petition has been filed.

4.According to the learned Counsel appearing for the petitioner, as contemplated under I proviso to Rule 5A of the Payment of Subsistence Allowance Act, 1981, the Management has to deposit the entire amount as directed by the original authority before numbering the appeal. Therefore, there was a delay in getting administrative sanction for the said amount. When the petitioner Management has given a reasonable cause for the delay, the authorities ought to have condoned the delay.

5.Per contra, the learned Counsel appearing for the respondent/workmen has submitted that as per Rule 5A of the Act, only 60 days time limit has been fixed for preferring an appeal. The authorities are not vested with any power to condone the delay. In such circumstances, when an appeal is filed beyond a period of 60 days, the authority does not have any power to condone the delay



and therefore, the appeal was dismissed on the ground of limitation.

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

7.A perusal of Rule 5A of the Tamil Nadu Payment of Subsistence Allowances Act, 1981, reveals that an appeal has to be preferred by the aggrieved person within a period of 60 days from the date of receipt of a copy of this order. In the present case, the appeal is preferred with a delay of 370 days, the Rule does not provide for condoning the delay. In such circumstances, the first respondent cannot be found fault with for rejecting the appeal on the ground of limitation.

8.It is brought to the notice of the Court that after domestic enquiry, the third respondent herein was dismissed from service. However, approval was not granted as contemplated under Section 33(2)(b) of the Industrial Disputes Act, 1947. The non-approval was put to challenge before this Court. The Writ Petition had dismissed and it was confirmed in the Writ Appeal. It is the grievance of the learned Counsel appearing for the third respondent, so far he has not been reinstated in service.



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9.The respondents 1 and 2 are directed to permit the petitioner to withdraw the amount deposited by the petitioner Management.

10.In view of the above said facts, this Court is not inclined to entertain the present writ petition. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

10.06.2025

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

To

1.The Deputy Commissioner of Labour,
Appellate Authority for Payment of Subsistence Allowance Act,
Dindigul.

2.The Assistant Commissioner of Labour,
Controlling Authority for Payment of Subsistence Allowance Act,
Dindigul.



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R.VIJAYAKUMAR, J.

RJR

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