



W.P.(MD) No.26999 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Order	Date of Pronouncing the Order
06.11.2025	19.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.26999 of 2025

and W.M.P.(MD) No.20970 of 2025

S.Messiahs Antony Durairaj

... Petitioner

-VS-

- 1.The Chief Educational Officer,
Thoothukuri,
Thoothukudi District.
- 2.The District Educational Officer,
Thoothukuri,
Thoothukudi District.
- 3.The Corporate Manager of R.C.School,
Tuticorin Diocesan Association,
Catholic Bishop's House,
No.82. Great Cotton Road,
Thoothukudi – 628 001.
- 4.St.Mary's Higher Secondary School,
Represented by its Correspondent,



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Pothakalanvilai – 628 702,
Thoothukudi District.

5.Bro.Benitto,
Advocate/ Enquiry Officer,
Social Action Centre,
Ayanporuvai,
Trichy District – 621 308.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus directing the respondents 3 and 4 to provide the subsistence allowance for the period commencing from the date of the order of suspension i.e.,16.08.2017 till 15.12.2017 and thereafter full salary for the remaining period till date and arrears, along with interest before commencing the proposed enquiry, pursuant to the Ref.No.SZ/2025/22 dated 30.07.2025 and Ref.No.SZ/2025/23 dated 31.07.2025 on the file of the third respondent and pass such other order.

For Petitioner : Mr.Robert Chandra Kumar

For Respondents : Mr.N.Satheesh Kumar for RR1 and 2
Additional Government Pleader

: Mr.Savarimuthu for RR3 to 5
for M/s.Xavier Associates

ORDER

This Writ Petition has been filed for directing the respondents 3 and 4 to



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provide the subsistence allowance for the period commencing from the date of the order of suspension i.e., 16.08.2017 till 15.12.2017 and thereafter full salary for the remaining period till date and arrears, along with interest before commencing the proposed enquiries dated 30.07.2025 and 31.07.2025 on the file of the 3rd respondent.

2) Heard, Mr. Robert Chandra Kumar, learned counsel appearing for the petitioner, Mr. N. Satheeskumar, learned Additional Government Pleader appearing on behalf of the respondents 1 & 2 and Mr. Savarimuthu, learned counsel appearing on behalf of the respondents 3 to 5

3) The learned counsel for the petitioner would submit that the petitioner was working as an Office Assistant in the fourth respondent/ school. While so, on 16.08.2017, the third respondent had issued an order of suspension and a show cause notice was also served on the petitioner on 05.09.2017. In spite of the explanation submitted by the petitioner on 08.09.2017, a charge memo was issued to the petitioner on 21.09.2017. An enquiry had been conducted even before the



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submission of the reply by the petitioner. He would submit that without properly conducting an enquiry, an enquiry report came to be filed, upon which the petitioner was also called upon to submit his further explanation. The petitioner had pointed out severe infirmities in his explanation. But, however without considering the same, an order of dismissal came to be passed.

4) Challenging the same, the petitioner had approached this Court by in W.P.(MD).No.124 of 2018 and Hon'ble Court by its order dated 20.06.2022 had set aside the order of dismissal and remitted the matter back to the third respondent for conducting a fresh enquiry. He would submit that as per the Provisions of Tamil Nadu Private Schools Regulation Act 1973, no suspension can remain imposed for a period of more than two months from the date of suspension and for the reasons to be recorded in writing, a further period of two (2) months can be extended. Even though, the management had preferred an Intra Court Appeal, when the matter was taken up for hearing on 09.06.2025, the Management had not pressed the Intra-Court Appeal and recording the same this Court had dismissed the Intra-Court Appeal as not-pressed. Thereafter, the third



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respondent had communicated to the petitioner appointing fifth respondent as enquiry officer.

5) He would submit that the petitioner had been out of employment and not worked in any other place and therefore, he is also entitled for subsistence allowance. He would submit that even though 8 years have passed by, from the date of suspension no subsistence allowance had been paid to the petitioner. He would further submit that without granting any subsistence allowance, the management is attempting to conduct an enquiry which would only prejudice the petitioner. Hence, he seeks indulgence of this Court to allow the Writ Petition.

6) In support of his contention, he had also relied upon the judgments of the Hon'ble Apex Court reported in **2018 (2) CTC 331, 2014 (1) CWC 740, (1999) 3 SCC 679 and 2001 (1) CTC 293**

7) The learned counsel appearing for the respondents 3 to 5 would submit that the learned Single Judge while setting aside the order of dismissal passed



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against the petitioner had categorically held that the petitioner would not be entitled for any reinstatement and will have to be deemed under suspension till a final decision had been taken in the issue. The same was challenged by the Management before the Hon'ble Division Bench in an Intra-Court Appeal and however, the said Appeal came to be dismissed as not-pressed by orders of this Court on 09.06.2025. Thereafter, a notice of enquiry was issued to the petitioner, at which stage the petitioner had now filed the present Writ Petition seeking for payment of Subsistence Allowance from the date of suspension till the order of dismissal and thereafter, full salary for the remaining period till date along with the interest, before commencing the proposed enquiry.

8) He would submit that when the learned Single Judge had specifically held that the petitioner is not entitled for any reinstatement, he could not also be entitled for any salary as claimed by him. He would submit that the reliance placed upon by the petitioner on the judgments that was relied upon him cannot be made applicable to the facts of the present case. He would submit that an enquiry was conducted against the petitioner and he has been dismissed within



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the stipulated period and this Court had held that he would be continued to be deemed under suspension and when that being so, he would only be entitled for grant of Subsistence Allowance only. Hence, he prays this Court to dismiss the Writ Petition.

9) Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing on behalf of the respondents 1 & 2 would contend that the Subsistence Allowance would initially be paid by the Government for a limited period only as it is the Management who have to conduct the enquiry within such stipulated time. Thereafter, if any suspension is continued, it is the Management who have to make good the Subsistence Allowance payable to the suspended employee. He would further submit that the relief is only against the third and fourth respondent/ Corporate Management and the school only and he would pray this Court to pass appropriate orders.

10) I have considered the submissions made by the learned counsels appearing on behalf of their parties and perused the materials available on record.



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11) It is not disputed that the petitioner who had been originally suspended, had also been visited with an order of dismissal as early as on 21.11.2017. The same came to be challenged by the petitioner in W.P.(MD).No. 124 of 2018 and this Court on merits had set aside the order of dismissal and remitted the matter back to the Management for conducting a fresh enquiry. It was categorically held that in view of the serious allegations that was levelled against the petitioner, the petitioner would not be entitled for reinstatement but, would be deemed to be under suspension till a final decision is taken in the matter. Against the said order, an Intra-Court Appeal had been preferred by the Management which came to be dismissed as not-pressed by the orders of the Division Bench on 09.06.2025.

12) In the present case, the petitioner is deemed to have been suspended by orders of this Court while setting aside the order of punishment. As rightly contested by the petitioner, the petitioner cannot be forced to attend the disciplinary enquiry without granting him the Subsistence Allowance during the period of suspension. The support drawn by the petitioner on the judgment of



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Hon'ble Apex Court reported in **2018 (2) CTC 310** is wholly well-founded. Considering the fact that by order dated 20.06.2022, the learned Single Judge of this Court had categorically held that the petitioner is not entitled for reinstatement in view of the serious charges levelled against him, he ought to be deemed to have been under suspension pending the enquiry and that the enquiry had been commenced by the third respondent by appointing the fifth respondent as an Enquiry Officer, by his communication dated 31.07.2025 after the dismissal of the Writ Appeal filed by them as not-pressed by the orders of this Court dated 09.06.2025. This Court is of the view that the petitioner would be entitled for Subsistence Allowance at least from the date of the order made by the Division Bench of this court.

13) In such view of the matter, even though, this Court is not inclined to grant the relief as claimed for by the petitioner in the Writ Petition, this Court is of the view that he is entitled for Subsistence Allowance from 09.06.2025 for him to effectively participate in the enquiry.



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14) For the aforesaid reasons, the Writ Petition stands disposed of with a direction to the third and fourth respondents to pay the petitioner the Subsistence Allowance that he would be entitled based upon the last drawn salary by the petitioner. Such payment shall be made to the petitioner from 09.06.2025 within a period of two (2) weeks from the date of receipt of a copy of this order and continue to pay the Subsistence Allowance till the disposal of the disciplinary proceedings against him as remitted by this Court. If the arrears from 09.06.2025 till date is not paid, the petitioner shall not be insisted to participate in the disciplinary proceedings and no adverse orders should be passed against him. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

19.12.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

- 1.The Chief Educational Officer,
Thoothukudi,
Thoothukudi District.
- 2.The District Educational Officer,
Thoothukudi, Thoothukudi District.



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K.KUMARESH BABU, J.

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PRE-DELIVERY ORDER

IN

W.P.(MD) No.26999 of 2025

and

W.M.P.(MD) Nos.21106 & 21109 of 2025

19.12.2025