



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2026

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THE HON'BLE MR.JUSTICE K.KUMARESH BABU

Review Application (MD) No. 7 of 2026

and

WMP (MD) No. 838 of 2026

S.Messiahs Antony Durairaj

Vs.

..Appellant(s)

1. The Chief Educational Officer
Thoothukudi, Thoothukudi District.
2. The District Educational Officer
Thoothukudi, 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
Rep. By its Correspondent
Pothakalanvilai – 628 702.

5. Bro.Benitto

..Respondent(s)

Prayer: Review Application filed under Order XLVII Rule 1 read with Section 114 of Code of Civil Procedure, to review the order dated 19.12.2025 passed in W.P.(MD) No. 26999 of 2025, on the file of this Court.



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For Appellant(s):

Mr.G.Prabu Rajadurai
For Mr.Robert Chandra Kumar I

For Respondent(s):

Mr.Savarimuthu for M/s.Xavier Associates
(RR3 to 5)
No appearance (R1 & R2)

ORDER

The Review Petition had been filed by the petitioner, who is the writ petitioner indicating that while concluding that the petitioner had been deemed to be under suspension, had directed payment of subsistence allowance from the date of the disposal of the writ appeal.

2. He would submit that the writ petitioner would be entitled for the subsistence allowance as it is only the learned Single Judge, who had held that the petitioner would not be entitled for reinstatement and therefore, would be under deemed suspension till the disciplinary proceedings are concluded.

3. He would submit that it is only the private respondents, who had taken the said judgement by way of an intra-Court appeal and after 3 years had made a statement that they would comply with the order & they would conduct the enquiry as directed by the learned Single Judge and recording the said statement, the intra-Court appeal was dismissed as not pressed. Therefore, he



would be entitled for subsistence allowance from the date of the order made in the writ petition.

4. Mr.Savarimuthu, learned counsel appearing for the 3rd of 5threspondents on the other hand would content that the respondents had challenged the order of the learned Single Judge, wherein the learned Single Judge had held that there is a violation of the procedures in the disciplinary proceedings and thereby, had set aside the order of dismissal.

5. He would submit that the learned Single Judge had *inter alia* held that the petitioner cannot be entitled for reinstatement, but will be under deemed suspension against which an intra-Court appeal had been preferred and the same was subsequently withdrawn. Hence, the order had become final only on the disposal of the intra-Court appeal, and therefore, this Court had rightly granted in the right of subsistence allowance from the date of the order made in the intra-Court appeal and therefore, there is no error whatsoever to review the order passed by this Court.

6. He would also bring it to the notice of this Court that the subsistence allowance as directed by this Court had also been paid to the petitioner and he should be directed to participate in the disciplinary proceedings.



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7. I have considered the submissions of either side and also gone through the materials available on record.

8. The petitioner had approached this Court for a direction to grant him subsistence allowance for the period commencing from the date of order of suspension viz., 16.08.2017 to 15.12.2017 and thereafter, for full salary for the remaining period till date, before commencing the disciplinary proceedings that had been initiated against him. The petitioner had also relied upon the judgement of the Hon'ble Apex Court reported in 2018 2 CTC 310 **may be** he is right in not participating in the disciplinary proceedings still the subsistence allowances were paid.

9. This Court had also taken into consideration that the learned Single Judge of this Court in its order dated 20.06.2022 had held that the petitioner ought to have been considered as only deemed to have been under suspension pending the enquiry. It is not disputed that the intra-Court appeal had been filed against the said order and was subsequently withdrawn by the respondents 3 to 5, on an undertaking that they would conduct as directed by the Learned Single Judge. When the petitioner had been held to be under deemed suspension from the date of the order as the order of dismissal was set aside, he would be



entitled for grant of subsistence allowance from the said date. However, this has also been recorded by this Court in the order, which is sought to be reviewed. The Court refusing to grant the relief prayed by the petitioner as prayed for, had held that he would be entitled for subsistence allowance from 09.06.2025 viz., the date on which the intra-Court appeal came to be dismissed as withdrawn.

10. The order of the learned Single Judge finding that the entire disciplinary proceedings was bad and had become final between the parties and therefore, the petitioner would be entitled for subsistence allowance from the date of the learned Single Judge's order and to that effect, there is a material error on the face of the record as pointed out by the learned counsel for the petitioner.

11. In such view of the matter, the Review Petition stands allowed and the petitioner is held to be entitled for grant of subsistence allowance on and from 20.06.2022, the date on which the Learned Single Judge had passed the order. Consequently, connected Miscellaneous Petition is closed. No order as to costs.



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06.03.2026



K.KUMARESH BABU, J.

Maya

To

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