
(2002) 07 MAD CK 0254

In the Madras High Court

Case No : Writ Petition No. 16197 of 1997

Managing Director, Tamil Nadu Poultry Development
Corporation Ltd.

APPELLANT

Vs

G. Jeelendran and Another

RESPONDENT

Date of Decision : 26-07-2002

Acts Referred:

Citation : (2002) 95 FLR 619 : (2002) 4 LLJ 26

Hon'ble Judges : R. Jayasimha Babu, J

Bench : Single Bench

Judgement

R. Jayasimha Babu, J.—The award setting aside the dismissal of the workman has been passed primarily on the ground that during the period of suspension of four years, he had not been paid any subsistence allowance. The subsistence allowance, admittedly, was paid only after the dismissal, which itself followed four years of continuous suspension.

2. The denial of subsistence allowance during such a long period will certainly have a deleterious effect on the workman's capacity to defend himself at any enquiry. It has been laid down by the Apex Court in more than one case that subsistence allowance is an allowance which is meant to enable the workman to subsist. If that allowance is deposited after the completion of the enquiry which took several years, the punishment inflicted would be prima facie vitiated. The impugned order of dismissal, therefore, cannot be sustained.

3. Learned counsel for the petitioner, however urged that the dispute itself was raised only after a long delay of four years after the dismissal. That by itself cannot be a factor for setting aside the award, but can only be a factor which could be considered while deciding the question of back wages. That factor has not been taken note of while passing the award. Having regard to the fact that the petitioner had worked hardly for two years before his suspension the award of full back wages to the petitioner was not warranted. The back wages will, therefore be confined to 75 per cent of the amount. The writ petition is disposed

of with this modification in the award.

4. Learned counsel for the workman points out that during the pendency of the writ petition the employer had deposited certain amounts towards payment of back wages. The workman will be at liberty to withdraw the same.