

WA.(MD)No.2312 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2026

CORAM:

**THE HONOURABLE MR.JUSTICE C.V. KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL**

WA.(MD)No.2312 of 2025
and
CMP(MD).No.13026 of 2025

1.The District Collector,
Madurai District, Madurai.

2.The Commissioner,
Chellampatty Panchayat Union,
Usilampatty Taluk,
Madurai District.

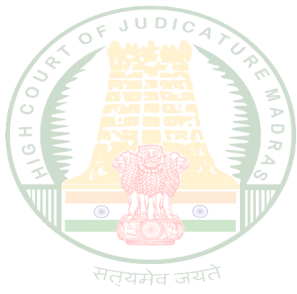
3.The Personal Assistant to the District Collector,
(Noon Meal), Madurai District. ... Appellants/Respondents

Vs

P.Pushpam ... Respondent/Petitioner

PRAYER :-

Writ Appeal filed under Clause 15 of Letters Patent, praying to prefer this memorandum of grounds of writ appeal against the order passed by this Court passed in W.P.(MD).No.10216 of 2021 dated 28.11.2024.



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WA.(MD)No.2312 of 2025

For Appellants : Mr.S.I.Muthiah
Additional Government Pleader

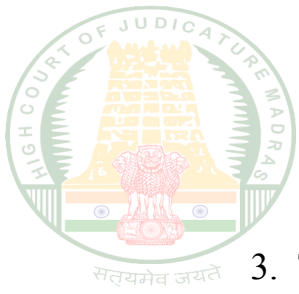
For Respondent : Mr.S.Govindan

JUDGMENT

(Judgment of the Court was made by **C.V. KARTHIKEYAN, J.**)

This Writ Appeal has been filed by the respondents in WP(MD)No. 10216 of 2021, aggrieved by the order of the learned Single Judge of this Court, dated 28.11.2024, whereby the learned Single Judge had allowed the writ petition filed by the first respondent herein.

2. The said writ petition has been filed in the nature of a Certiorarified Mandamus seeking the records relating to an order passed by the third appellant herein/third respondent in the writ petition, namely, the Personal Assistant to the District Collector, (Noon Meal), Madurai District, dated 05.04.2021, to quash the same and also to extend the service benefits for the period between 22.08.2011 to 27.02.2014, during which period the writ petitioner/respondent herein was placed under suspension.



WA.(MD)No.2312 of 2025

3. The writ petitioner was a retired Noon Meal Organizer. She was placed under suspension on 22.08.2011. She had been involved in a criminal case in Crime No.119 of 2011. Subsequent to the investigation, the final report was taken cognizance by the jurisdictional Magistrate Court. As a matter of fact, there were three Calender Cases in which the writ petitioner was an accused. A compromise had been entered into with the defacto complainant and, thereafter, the learned Single Judge of this Court had quashed the further proceedings in the three Calender Cases. Departmental proceedings had also been initiated and, ultimately, it was found that the charges were not established. It is in those circumstances that we are not entering into a discussion on the nature or gravity of the charges. Suffice it to point out that both the criminal cases launched against the writ petitioner and the departmental proceedings had resulted in orders adverse to the appellants herein. The issue that remained open for consideration was the manner in which the period of suspension should be treated. The writ petition had been filed seeking payment of benefits for the period of suspension. It is contended on behalf of the appellants herein that, as a Noon Meal Organizer, there were no service rules applicable to the writ petitioner and that she did not belong to any cadre under the State Government. It was purely a service rendered under a



WA.(MD)No.2312 of 2025

particular scheme. It is, therefore, contended that no benefits could be extended to the writ petitioner.

4. The learned counsel for the respondent/writ petitioner, however, placed reliance on the Judgment of the learned Single Judge of this Court in ***G.Periannan Vs. The Government of Tamil Nadu, Rep. by the Secretary to Government, Social Welfare and Nutritious Meal Department, Fort St. George, Madras-9 and others*** reported in ***2007 (3) CTC 806 [W.P.No.14911 of 2006]***. The learned Single Judge examined the very same issue as to whether a Noon Meal Organizer could be considered as a public servant and whether the post could be treated as a cadre under the Government. The learned Single Judge had placed reliance on the Judgement of the Hon'ble Supreme Court of India in ***Ramesh K. Sharma & Another V. Rajasthan Civil Services & Others*** reported in ***2001 (1) SCC 637***, wherein the service of an individual appointed on the basis of an Executive Order was examined and it was held as follows:

“According to the learned counsel since there was no relevant Service Rules for recruitment to the post under the Land and Building Tax Department it has to be assumed that such appointment has been made without any selection and, as such the appointment would attract the expression “ad hoc” in Rule 3 (a) of the Absorption Rules. We are not



WA.(MD)No.2312 of 2025

WEB COPY

persuaded to accept this contention inasmuch as the expression “service rules” does not necessarily mean rules framed by the Governor in exercise of power under the Proviso to [Article 309](#) of the Constitution. It is well settled that the service condition including the mode of recruitment to a service could be determined by a set of administrative order in the absence of any statutory rule operative in the field. This being the position, and when the very advertisement for filling up of the post in the Land and Building Tax Department is examined it would be apparent that the said advertisement indicated minimum educational qualification, the age of the applicant, the number of vacancies and the mode of recruitment. It was further stipulated that the selection of the candidates will be by the written test in General Knowledge, General English, General Hindi and thereafter the interview. In the aforesaid rule clear enunciation of the mode of recruitment to the post by the competent executive authority, the contention of Dr. Rajiv Dhavan that the appointments of the private respondents had been made without any selection cannot be accepted. Dr. Rajiv Dhavan alternatively argued that the second part of the definition in Rule 3(a) would also be applicable to the case in hand inasmuch as though the temporary appointment of the private respondents to the Land and Building Tax Department had been made by the order of the Government for which there were no service rules and as such, the appointment cannot be ad hoc. This submission also cannot be accepted on a true interpretation of the second part of Rule 3(a). To attract the second part the conditions to be fulfilled are: (1) there does not exist any service rule for the appointment, (2) the appointment is made under the orders of the Government, and (3) such appointment is made otherwise than on the recommendation of the Commission if the post comes within the purview of the Commission. It is



WA.(MD)No.2312 of 2025

WEB COPY

nobody's case that the posts created under the special scheme to which the private respondents had been recruited in the Land and Building Tax Department do come within the purview of the Service Commission. In such a case if there are no service rules appointment is made by an order of the Government to the post then also it will not be an ad hoc appointment in terms of Rule 3(a) of the Absorption Rules. But as we have already stated, the expression "Service Rule" cannot be given a restrictive meaning in the absence of the definition of the said term and, therefore, it would include within its sweep the necessary Government Order providing the method of recruitment. In the case in hand, in view of our conclusion, the Government Order did prescribe the method of recruitment, so it would be difficult for us to hold that there was no Rule existing providing the mode of recruitment. Consequently even the second part of the definition of "ad hoc appointment" contained in Rule 3 (a) of the Absorption Rules to have no Application. The contention of Dr. Dhavan, therefore, cannot be sustained."

5. Thereafter, it had also been observed that the post of Noon Meal Organiser was created under a Government Order issued in exercise of powers conferred under Article 162 of the Constitution of India. Under those circumstances, the learned Single Judge had held that the post of Noon Meal Organizer is a substantive post under the Tamil Nadu Government. Once that fact is established, the writ petitioner would be entitled to have the period of suspension regularized. Since the criminal cases had ended in acquittal, or



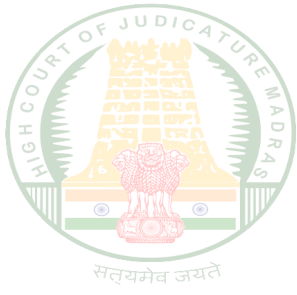
WA.(MD)No.2312 of 2025

rather had been quashed, and the departmental proceedings had also resulted in a finding that the charges had not been proved, the learned Single Judge had allowed the writ petition with a direction to pay eligible subsistence allowance.

6. In view of the above, we would concur with the said view and not interfere with the said order and, accordingly, the Writ Appeal stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

[C.V.K., J.] [R.S.V., J.]
27.08.2026

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NCC : Yes/No



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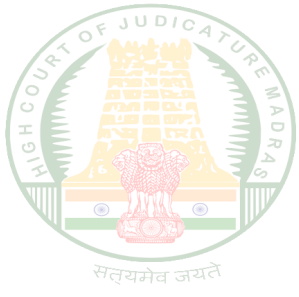
WA.(MD)No.2312 of 2025

**C.V. KARTHIKEYAN, J.
AND
R.SAKTHIVEL, J.**

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WA.(MD)No.2312 of 2025

27.08.2026



WEB COPY



WA.(MD)No.2312 of 2025