

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2015

CORAM:

THE HONOURABLE MR.JUSTICE SATISH K. AGNIHOTRI

AND

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

W.A.No.1513 of 2015

S.Anbalagan

.. Appellant

Vs.

1.The Presiding Officer,
I Additional Labor Court,
Chennai-104.

2.The Management of
(Erstwhile Pallavan Transport Corporation Ltd.,)
Metropolitan Transport Corporation
(Chennai) Ltd.,
Anna Salai,
Chennai-600 002.

.. Respondents

Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court dated 15.07.2014 passed in W.P.No.28789 of 2013.

WP.NO.28789 of 2013:Writ Petition filed Under Article 226 of the Constitution of India praying for the Issuance of a Writ of Prohibition, prohibiting the 1st respondent Labour Court in proceeding with the E.P.No.207 of 2013 by the 1st respondent Labour Court as under the provisions of Section 2(a) of the Industrial Disputes Act 1947 for the execution of the Lok Adalat award passed by the Honourable High Court in W.A.374 of 2011 dated 5.12.2012 and until and unless a monetary value is computed as per the Provisions of the Section 33(C)(2) of the Industrial Dispute Act or any other procedure of Law.

For appellant : Mr.S.T.Varadarajulu

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JUDGMENT

(Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 15th July, 2014 passed in W.P.No.28789 of 2013 preferred by the second respondent herein.

2 The writ petitioner had preferred the instant writ petition, seeking writ of prohibition prohibiting the first respondent Labour Court from proceeding with E.P.No.207 of 2013 under the provisions of Section 2(a) of the Industrial Disputes Act, 1947 for the execution of the Lok Adalat award passed by this Court in W.A.No.374 of 2011 dated 5th December, 2012.

3 The facts are in narrow compass. The appellant herein was removed from service of the second respondent. Thereagainst, a challenge was made in I.D.No.633 of 1996 on the file of the I Additional Labour Court, by the appellant herein. The Labour Court, vide award dated 5th September, 2002 directed the second respondent herein to reinstate the appellant in service with 50% backwages, with continuity of service and all other attendant benefits.

4 The said award was assailed by the Management in W.P.No.22280 of 2003 against the direction of reinstatement with 50% backwages. The appellant herein also assailed the said order in W.P.No.49749 of 2006, questioning the correctness of a portion of the Award to the extent of declining 50% backwages while granting 50% backwages.

5 The learned Single Judge by order dated 26th November, 2010 allowed the writ petition filed by the management and dismissed the writ petition filed by the appellant herein / employee. Thereagainst, an appeal was preferred by the appellant herein. The appeal was referred to the Lok Adalat. With the consent of both parties, the Lok Adalat Award was made on 5th December, 2012 in terms of the following :

TERMS OF SETTLEMENT

The award passed in I.D.No.633 of 2002, dated 05.09.2002 is modified by directing the respondent i.e. Management of Metropolitan Transport Corporation (Chennai Division-I) Limited, to re-instate the appellant with continuity of service with all other attendant benefits. Only thing given up is full back wages. The award grants 50% of the back wages and that benefit are given up by the Appellant viz., Mr.Anbalagan.

2.It is also agreed that the amount deposited by the Management before the Lower Court that is Rs.1,19,397/- (Rupees One Lakh Nineteen Thousand Three Hundred Ninety Seven only), with interest if any shall be returned to the respondent/Metropolitan Transport Corporation, Chennai Division. To that effect the award is modified accordingly. Four weeks time is granted to implement the award.

sd/-
Anbalagan

sd/-
Counsel for the Appellant

sd/-
The Management of
Metropolitan Transport Corporation
(Chennai Division-I) Limited,
(Formerly Pallavan Transport Corporation Limited)
Rep. By its General Manager, SD/-
Anna Salai, Chennai-600 002. Counsel for the 1st
Respondent

This Lok Adalat award is passed in terms of the above settlement."

6 The appellant, thereafter, preferred E.P.No.207 of 2013 on the file of the Labour Court, claiming backwages from the date of the award, i.e., 5th September, 2002 to the date of reinstatement, i.e., 11th April, 2013. The Management preferred the instant writ petition for writ of prohibition, as aforestated.

7 The learned Single Judge examined the contentions of both parties and held as under :

"8.I am unable to accept the contention of the learned counsel for the second respondent. Admittedly, parties arrived at a settlement before the Lok Adalat on 05.12.2012 and as per the terms of settlement, the Award passed in I.D.No.633 of 1996 was modified and the petitioner was directed to reinstate the appellant/second respondent with continuity of service with all other attendant benefits. It is also made clear that full back wages was given up and also 50% back wages as per the Award passed in I.D.No.633 of 1996 dated 05.09.2002 was also

given up. Therefore, as per the terms of settlement, the second respondent is entitled to get reinstatement with continuity of service with all other attendant benefits and he is not entitled to claim any back wages as per the Award passed in I.D.No.633 of 1996 dated 05.09.2002. It is also made clear by Paragraph 2 of the terms of settlement, by which, the petitioner was permitted to get refund of the sum of Rs.1,19,397/- deposited by the petitioner Management before the Labour Court. Had it been the intention of the parties that the second respondent is entitled to claim back wages as contended by him, there was no necessity for refund of the amount deposited by the petitioner before the Labour Court. In my opinion, the order of refund of the amount to the petitioner/Management would make it clear that the second respondent was not entitled to claim any back wages."

8 We have heard the learned counsel for the appellant. On bare perusal of the Lok Adalat award, which was arrived at with the consent of parties, it is explicit that the grant of backwages was given up by the appellant. It was agreed that the amount of Rs.1,19,397/- deposited by the management /second respondent herein was to be returned to the second respondent / Management.

9 The contention of the appellant that the appellant has agreed to give up the backwages only to an extent of 50% of the total backwages, not the entire backwages, is not evident from the terms of the Lok Adalat award. The terms of the award clearly stipulates that the appellant will be entitled to reinstatement with continuity of service with other attendant benefits. The full backwages was given up by the employee concerned, i.e., the appellant herein, and as such, execution petition for grant of backwages as prayed for by the appellant herein from the award date to the date of reinstatement was not admissible. After giving up the entire backwages, the appellant is not permitted to rake up the issue of grant of backwages pursuant to the reinstatement before the Labour Court in the execution petition. However, the appellant is entitled to have continuity of service with other attendant benefits as agreed between the parties, as per the terms of Lok Adalat award.

10 The order of the learned Single Judge is unexceptionable, just and proper, warranting no interference. The writ appeal is, accordingly, dismissed, at the admission stage itself. No costs.

-s/d-
Assistant Registrar

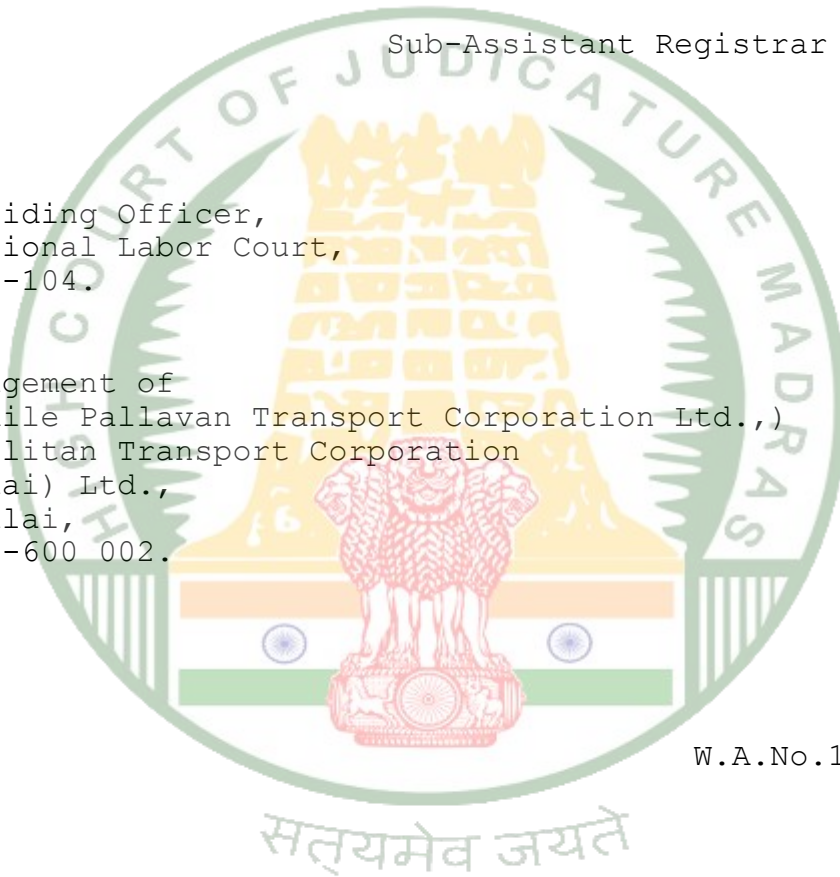
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Sub-Assistant Registrar

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To

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I Additional Labor Court,
Chennai-104.

2.The Management of
(Erstwhile Pallavan Transport Corporation Ltd.,)
Metropolitan Transport Corporation
(Chennai) Ltd.,
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