

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.01.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.30697 of 2014
and M.P.No.1 of 2014

The Management of Tamil Nadu
State Transport Corporation Ltd.,
Villupuram.

... Petitioner

-vs-

1. The Presiding Officer,
The Labour Court,
Cuddalore.

2. A.Murugan

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari to call for the records of the 1st respondent in C.P.No.17 of 2013 dated 13.03.2014 and quash the same.

For Petitioner : Mr.P.Paramasiva Doss

For Respondents : Mr.L.S.M.Hasan Fizal for R-2

O R D E R

Heard Mr.P.Paramasiva Doss, learned counsel for the petitioner and Mr.L.S.M.Hasan Fizal, learned counsel appearing for the second respondent.

2.The petitioner is the Management of the Tamil Nadu State Transport Corporation Limited, Villupuram and the challenge is to an order passed by the Labour Court, Cuddalore, in Claim Petition No.17 of 2013. The said petition was filed by the second respondent/ workman under Section 33 (C) (2) of the Industrial Disputes Act, 1947. The second respondent was working in the petitioner-Corporation and on 21.07.2000, he was dismissed from service. Challenging the order of dismissal, he has raised a dispute before the Labour Court, which was taken on

file as I.D.No.93 of 2001. The Labour Court by award dated 27.01.2004, set aside the order of dismissal and directed reinstatement of the second respondent with continuity of service and backwages. The petitioner-Corporation filed a writ petition against the said award and the matter was remanded by this Court to find out as to whether the second respondent had worked for 240 days in a year. Thereupon, the Labour Court re-heard the matter and passed an award directing reinstatement with continuity of service. The award was published on 21.11.2011. However, the petitioner-Corporation did not reinstate the second respondent nor any wages were paid. Therefore, the second respondent filed a petition for computation of the wages payable. Before the Labour Court, the petitioner-Corporation, which was impleaded as the sole respondent, accepted that the order of dismissal was set aside by the Labour Court in I.D.No.93 of 2001, but contended that the Labour Court did not award backwages and therefore, the petitioner is not entitled for backwages.

3.The Labour Court framed two questions for consideration, namely, whether the second respondent is entitled for arrears of salary as claimed in the petition and the second question is if he is entitled, what is the monetary value to be computed. The Labour Court found that in I.D.No.93 of 2001, the award was only for reinstatement with continuity of service. Therefore, it pointed out that the award ought to have been implemented after it had become enforceable, that is, on 21.12.2012. The Labour Court also noticed the evidence of R.W.1, the Senior Superintendent of the petitioner-Corporation, who was cross-examined and accepted that the second respondent was not reinstated. Therefore, the Labour Court held that the petitioner-Corporation is liable to pay salary from the date on which the award had become enforceable. Therefore, the prayer sought for by the second respondent to implement the award with arrears was held to be not proper, as the second respondent can claim implementation of the award only after it had become enforceable.

4.That apart, the Labour Court has recorded in the impugned order that the petitioner-Corporation did not dispute the correctness of the monthly salary computed. Accordingly, the monetary value was computed at Rs.1,21,770/-. Thus, in the absence of any perversity in the order passed by the Labour Court, this Court will not examine the correctness of the impugned order, as if it is the second appellate Court over the order passed by the Labour Court. On the grounds raised by the petitioner-Corporation, the impugned order cannot be set aside.

5.It would be worthwhile to point out at this juncture that though a conditional interim order was passed by this Court at the time when the writ petition was entertained, the same was not complied with and the interim order was vacated. Thus, the Labour Court having rightly held that from the date on which the award became enforceable, the workman is not entitled to arrears of wages is a correct finding rendered considering the factual matrix.

6.Thus, in the absence of any perversity in the order passed by the Labour Court, no interference is called for. Accordingly, writ Petition fails and the same stands dismissed. No costs. Consequently, M.P.No.1 of 2014 also stands dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

sra

To

The Presiding Officer,
The Labour Court,
Cuddalore.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.6429
+1cc to Mr.K.Aruna Giri, Advocate, S.R.No.5574

W.P.No.30697 of 2014

RV(CO)
CA(12/02/2016)

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