

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.A. No.435 of 2016
and
C.M.P.No.6332 of 2016

The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002. ... Appellant

Vs.

1.R.Sivaprakasam & 423 other
through General Secretary,
CITU Union 73 MDS
52, Cooks Road,
Perambur, Chennai-600 012.

2.The Deputy Commissioner of Labour-I &
In-charge Officer for Minimum Wages Act,
D.M.S. Office,
II Floor,
Chennai-600 006. ... Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent
challenging the order dated 27.02.2015 passed in M.P.No.2 of
2015 in W.P.No.6278 of 2013.

Prayer in MP 2/15-is to modify the order as grant liberty to the
petitioner to deposit the amount into the Court instead of pay
the amount to the 1st respondent as stated in MP 1 and 2 of 2013
in W.P.No.6278 of 2013 dated 16.6.2014.

Prayer in W.P.6278 of 2013:- Petition to issue a Writ of
Certiorari Call for the records pertaining to the Award dated
19.10.2012 made in M.W.P. No.3 of 2008 on the file of the 2nd
respondent herein and quash the same.

For Appellant Mr.P.Paramasiva Doss

For Respondents Mr.R.Krishnaswamy for R-1

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsels appearing for the parties, the writ appeal is taken up for disposal.

2 The instant appeal arises from the interim order dated 27th February, 2015 passed in M.P.No.2 of 2015 in W.P.No.6278 of 2013.

3 The appellant Corporation preferred a writ petition, questioning the legality and validity of Award dated 19th October, 2012 made in M.W.P.No.3 of 2012 rendered by the second respondent. By the impugned Award dated 19th October, 2012, the 424 employees represented through the first respondent were found eligible, having worked during the period from 1st April, 2007 to 30th September, 2007, to get differential of wages. Accordingly, payment to the tune of Rs.40,25,612.20 was ordered. The said order was assailed by the management appellant in the writ petition. On 15th March, 2013, while issuing notice, an interim stay of the Award was granted. Thereafter, an application to vacate the interim stay, being M.P.No.2 of 2013, was moved by the first respondent. The said application was dismissed, making the interim stay absolute on condition that the appellant-management would pay 1/3rd of the excess amount awarded by the second respondent under the provisions of the Minimum Wages Act. Thereafter, time was sought by the appellant-management, seeking compliance of the order, as aforestated. The time was granted and a request for depositing the amount into the Court was rejected, directing the appellant to make payment as per order dated 16th June 2014.

4 The instant appeal is filed primarily on the ground that once payment is made, the appellant-management would not be in a position to recover the same in the event the appellant succeeds in the writ court. Thus, a direction be issued to deposit the said amount with the second respondent, not making payment to the first respondent directly. It is also contended that the challenge in the pending petition is in respect of the relationship between the appellant and the employees represented through the first respondent and the factum of continuous employment was also disputed.

5 We have considered the case from all angles and also heard the learned counsel appearing for the parties.

6 Indisputably, the second respondent has come to a categorical finding that 424 employees/ first respondent herein have established their continuous working from 1st April, 2007 to 30th September, 2007. The second respondent had also determined the quantum of differential of wages. The learned Single Judge, considering the case, directed to make payment of 1/3rd of the total amount, which is neither excessive nor arbitrary. Even otherwise, the employees, who have succeeded before the second respondent under the provisions of the Minimum Wages Act, are entitled to payment granted by the second respondent. Considering the issue raised by the appellant management, the learned Single Judge has rightly directed to pay 1/3rd of the total amount, which may be subject to final outcome in the pending writ petition. We do not find any infirmity or illegality in the order sought to be impugned in the appeal.

7 Resultantly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Commissioner of Labour-I &
In-charge Officer for Minimum Wages Act,
D.M.S. Office,
II Floor,
Chennai-600 006.

2.The Managing Director,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-600 002.

+1cc to Mr.P.Paramasivadosh, Advocate Sr.22876
+1cc to Mr.V.Ajoy Khose, Advocate Sr.22570

W.A. No.435 of 2016

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srg 28/04/2016