



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.09.2016

CORAM

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.10765 of 2016

and

W.M.P (MD) Nos.8353 and 8354 of 2016

The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Ltd.,
Bye Pass Road,
District Collector Office Post,
Dindigul-624 004.

... Petitioner

vs.

1) The Special Deputy Commissioner of Labour,
O/o. Commissioner of Labour,
Chennai-600 006.

2) A. Fathima Mary

... Respondents

Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling of the records of the 1st respondent in his proceeding in Approval Petition in A.P.No.72/2012 dated 27.12.2012, quash the same.

For Petitioner : Mr.A.Jeyaram

For R1 : Mr.S.Kumar, Additional Government Pleader

For R2 : Mr.S.Govindan

ORDER

This writ petition has been filed by the Transport Corporation seeking quashment of the order passed in Approval Petition in A.P.No.72/2012, dated 27.12.2012.

2. The brief facts leading to passing of this order is that the 2nd respondent's husband one S.Arockia Samy was employed as a Driver in the petitioner's Transport Corporation. It is alleged that he contested as a candidate for the post of President in a Village Panchayat Election held on 17.10.2011 without resigning his employment as required under the Service Rules and disciplinary guidelines. The District Collector, Dindigul District, sent a letter to the Election Officer and also to the petitioner Transport



Corporation, informing them that one Arockia Samy, Driver of Dindigul Region has contested as a candidate for the post of President in the Village Panchayat Election held on 17.10.2011. Thereafter, a charge memo was issued to the said Arockia Samy, alleging misconduct on his part. After conducting a full-fledged enquiry by following the principles of natural justice, the Management dismissed the 2nd respondent's husband, by the order dated 22.02.2012. Subsequently, the Transport Corporation filed Form 'T' as per Section 33(2)(b) of the Industrial Disputes Act, 1947, before the 1st respondent/Special Deputy Commissioner of Labour, Chennai, seeking approval of the dismissal. Finally, the petition for approval was dismissed and Form 'T' was rejected. In the interregnum, the driver died on 23.08.2013 leaving his wife, 2nd respondent as the legal heir. Aggrieved over the dismissal of the approval application, the Transport Corporation filed W.P(MD) No.18222 of 2013 and the High Court ordered the writ petition with liberty and directed the Transport Corporation to pay the terminal benefits which accrued to the deceased employee within a period of eight weeks. While passing the order, this Court made an observation that this order is passed without prejudice to the right of the Transport Corporation to challenge the order passed by the 1st respondent by which approval petition was rejected. Liberty was used by the Transport Corporation by filing an Appeal in W.A(MD) No.797 of 2015 and it was dismissed on 21.09.2015, thereby, the order dated 11.02.2014 in W.P(MD)No.18222 of 2013 came to be confirmed. Even thereafter, the Transport Corporation has filed this Writ Petition challenging the order passed by the 1st respondent passed in Approval petition No.72/2012 dated 27.12.2012.

3.Learned counsel for the 2nd respondent submits that this writ petition is not maintainable, simply on the ground that the Transport Corporation has already exhausted the remedy available under law and therefore, it is barred by *res judicata* and the order passed in W.P(MD)No.18222 of 2013 is relied upon, under which, liberty was granted to the Transport Corporation to challenge the rejection order. The fact remains that thereafter W.A(MD)No.797 of 2015 has been filed by the Transport Corporation and the same was dismissed.

4.Therefore, once the matter has reached finality having been adjudicated by the competent court, present writ petition filed by the Transport Corporation is not maintainable, as the issue has been already adjudicated and finally decided. Under such circumstances, this writ petition is dismissed as not maintainable. No costs. W.M.P(MD)Nos.8353 and 8354 of 2016 are closed.

Sd/-

Assistant Registrar (Writ)

/True Copy/



The Special Deputy Commissioner of Labour,
O/o. Commissioner of Labour,
Chennai-600 006.

+ 1 CC TO Mr.S.GOVINDAN, ADVOCATE IN SR No. 50852
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 50927

NBI

TE/GSV-PM : 22/11/2016 : 3P/4C

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