

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T. RAJA

W.P.No.14287 of 2017

G.Kalpana

.. Petitioner

Vs.

1. The Managing Director,
Metropolitan Transport Corporation,
Anna Salai, Pallavan Illam,
Chennai – 600 002.

2. The Administrator,
Tamil Nadu State Transport Corporation
Employees Pension Fund,
Pallavan Salai, Chennai – 600 002.

.. Respondents

Writ Petition filed under Article 226 of The Constitution of India, praying for the issuance of Writ of Mandamus directing the 1st respondent to pay backwages for the remaining period from June 2013 to the date of death of the husband of the petitioner i.e on 21.03.2015 and family pension and other terminal benefits to the petitioner.

For petitioner .. Mr.S.T.Varadarajulu

For respondents .. Mr.P.Kannan Kumar

ORDER

Mr. P. Kannan Kumar, learned Standing Counsel, accepts notice for the respondents.

2 This writ petition has been filed seeking issuance of a writ of mandamus directing the 1st respondent to pay backwages for the remaining period from June 2013 to the date of death of the petitioner's husband, i.e on 21.03.2015 and family pension and other terminal benefits to the petitioner.

3 This writ petition has been filed by G.Kalpana, W/o late V.Murali, who was dismissed from service for his unauthorised absence by order dated 28.04.2008. After his dismissal from service, the petitioner's husband filed a computation petition belatedly under Section 33 (C) (2) of the Industrial Disputes Act, 1947, on the file of the Labour Court, Chennai, claiming backwages for the non employment period from May 2008 to May 2013. After the said petition was numbered as C.P.No.390 of 2013, it has been kept pending on the file of the II Additional Labour Court, Chennai.

4 The point taken in the said computation petition is that the order of dismissal dated 28.04.2008 is non-est, as it is not been approved by a valid order passed by the appropriate authority.

5 The petitioner's main plank of contention is that when her husband was dismissed from service on 28.04.2008, the order of the dismissal should have been approved by the appropriate authority which has not been done. Hence, the present writ petition for the aforestated relief.

6 According to the learned counsel for the petitioner, as per the Supreme Court's ruling in *Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd., Vs Ramgopal Sharma and others* [2002 (1) LLN 639], the order of dismissal has become ineffective and therefore, the computation pension is pending; in view thereof, the respondent Transport Corporation should be directed to settle Family Pension, Gratuity, Provident Fund, etc. to the petitioner.

7 This Court is not inclined to entertain this writ petition for the reason that when the petitioner's husband was dismissed from service on 28.04.2008 for the reasons best known to him, the petitioner's husband has not approached the authority within a reasonable time. However, he has filed a computation petition under Section 33(C)(2), *ibid*, before the Labour Court claiming backwages for the non employment period from May 2008 to May 2013. When the said computation petition also has not been till date disposed of, it is not known whether the respondent Transport Corporation has obtained order of approval. Therefore, in the considered opinion of this Court, this writ petition seeking the aforestated relief is totally misconceived.

T. RAJA, J.

AT

Resultantly, this writ petition is dismissed as being devoid of merits. No costs.

08.06.2017

Index: Yes/No
at/cad

To

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