

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 10.11.2017

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THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.11714 of 2006 &
WMP.Nos.13309 & 17268 of 2006

The Metropolitan Transport
Corporation (Chennai) Ltd.,
rep. by its Managing Director,
Chennai Petitioner

vs

1. The Presiding Officer,
Principal Labour Court, Chennai.
2. Tmt.K.Sundari
3. Thiru N.Balaji
4. Thiru N.Vikanesh
5. Thiru Rengasamy
6. Tmt.Rajammal Respondents

Prayer: This Writ Petition is filed under Article 226 of the
Constitution of India, praying for issuance of Writ of
Certiorari, to call for the records of the first respondent in
C.P.No.642/2001 dated 12.4.2005 and quash the same.

For petitioner : Mr.Paramasivadoss

For respondents : Mr.V.Ajoy Khose for R2toR6
2 to 6

ORDER

The present writ petition has been filed, seeking for the
following relief:

"Issue Writ of Certiorari, to call for the
records of the first respondent in C.P.No.642/2001
dated 12.4.2005 and quash the same.

2. By the above said impugned order, the first
respondent/Labour Court allowed the Computation Petition filed
by the deceased workman.

3. The facts which give rise to the filing of the Writ Petition, are stated hereunder:

The deceased workman, Thiru Nandagopal. who was working as Driver in the petitioner Corporation, came to be removed from service by order dated 22.7.1993 for certain acts of misconduct. At that time, there was an issue between the workmen and the management regarding grant of annual bonus which was pending consideration before the Industrial Tribunal, Chennai in I.D.No.61 of 1982. In view of pendency of the dispute, the petitioner Corporation had filed an approval petition in A.P.No.89 of 1993, seeking approval of the action taken by the Corporation in removing the workman from service. During the pendency of the approval petition before the Industrial Tribunal, the workman Nandagopal died on 17.6.1997 and the respondents 2 to 6 herein, got impleaded in the place of deceased workman before the Industrial Tribunal. Subsequently, the Industrial Tribunal rejected the approval petition on 13.8.1999. Therefore, the legal heirs of the deceased workman, viz., respondents 2 to 6 had approached the first respondent Labour Court by filing a Computation Petition in C.P.No.642 of 2001 under Section 33(c)(5) of the Industrial Disputes Act, claiming an amount of Rs.3,04,791.41 towards back wages, annual bonus, exgratia cost of uniform cloth, earned leave salary etc. The petitioner Corporation resisted the claim of the respondents 2 to 6 by filing a counter affidavit. Ultimately, after taking into consideration the oral and documentary evidence made available, the first respondent passed an order on 12.4.2005 holding that the deceased employee was entitled for a sum of Rs.1,48,885.70 towards back wages, a sum of Rs.19,646/- towards bonus and exgratia, a sum of Rs.5,915/- towards earned leave salary and a sum of Rs.1,00,000/- towards exgratia payment for the death of workman during the period of employment. The total amount ordered by the Labour Court was Rs.2,74,447/-.

4. The petitioner Corporation has challenged the partial portion of the order passed by the first respondent Labour Court only to the extent of grant of Rs.1,00,000/- granted towards death relief fund and Rs.5,915/- granted towards leave salary. According to the petitioner Corporation, the compensation amount was payable only to the employee who dies during performing of actual duty and in the instant case, the death of the workman was not in the course of actual employment and therefore, such compensation was not payable. It was also contended that the award of Rs.5,915/- towards leave salary encashment is also not payable to the petitioner. However, no specific ground has been raised as to why the deceased workman was not entitled to such payment.

5. It is seen from the order passed by the Labour Court in C.P.No.642 of 2001 dated 12.4.2005 that the contentions as put forth by the petitioner Corporation have been considered by the Labour Court with reference to the materials placed before it. The Labour Court has given proper reasons for allowing the claim of the claimants and this Court does not find any infirmity in the order passed by the first respondent Labour Court. The grounds raised in support of the Writ Petition do not merit any consideration for overturning the order passed by the Labour Court in the aforesaid Computation Petition. Moreover, it is seen that already more than 50% of the amount has been permitted to be withdrawn as early as in 2008 and the remaining amount is lying in a fixed deposit. In view of the above, this Court does not find any valid reasons to interfere with the order passed by the Labour Court.

6. The learned counsel appearing for the respondents 2 to 6 would also submit that the petitioner Corporation may also be directed to consider the payment of retirement benefits to them as admissible.

7. In the light of the above, this Court does not find any merit in the Writ Petition and accordingly, it is dismissed. No costs. The respondents 2 to 6 are permitted to withdraw the remaining amount lying in fixed deposit in the Indian Bank, High Court Extension Counter. The petitioner Corporation is directed to sanction retirement benefits due and payable to the deceased workman, to the respondents 2 to 6, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected WPMPs are closed.

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ASSISTANT REGISTRAR

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

To
1. The Managing Director,
The Metropolitan Transport
Corporation (Chennai) Ltd.,
Chennai

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2. The Presiding Officer,
Principal Labour Court, Chennai.

+1CC to Mr.V.Ajoy Khose Advocate SR.NO.79766

W.P.NO.11714 OF 2006

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MK:03/02/2018



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