

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.Nos.5298 & 5299 of 2018

The Managing Director
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam
Anna Salai, Chennai 600 002

..Petitioner in both the writ petitions

-vs-

1. The Presiding Officer
III Additional Labour Court
City Civil Court Annex Building
High Court Compound
Chennai 600 104

2. The Secretary to Government
Transport Department
Fort St.George
Chennai 600 009

.. Respondents 1 & 2 in both the petitions

3. Mr.P.G.Venugopal ...3rd Respondent in W.P.No.5298 of 2018
4. Mr.V.Raju ...3rd Respondent in W.P.No.5299 of 2018

Petitions under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorari, calling for the
records pertaining to the orders passed in E.P.Nos.184 & 185 of
2017 in C.P.Nos.59 & 58 of 2009 respectively, dated 29.01.2018
on the file of the first respondent herein and quash the same.

For Petitioner :: Mr.M.Chidambaram

ORDER

These writ petitions have been filed challenging the orders
dated 29.1.2018 passed by the Presiding Officer of III
Additional Labour Court, Chennai in E.P.Nos.184 & 185 of 2017 in
C.P.Nos.59 & 58 of 2009 respectively attaching the movable
properties/buses owned by the petitioner-Corporation for non-
compliance of the orders dated 27.9.2013 passed in C.P.No.59 &

58 of 2009, after giving an undertaking to deposit the amount, holding that there is no other option except to reissue the order of attachment and accordingly, an order was passed to reattach the properties by 9.3.2018.

2. This Court is not inclined to entertain the writ petitions for two reasons. Firstly, when the contesting respondents, namely, Mr.P.G.Venugopal and Mr.V.Raju were denied the benefit of pension, they approached the first respondent Labour Court by filing the claim petitions under Section 33-C(2) of the Industrial Disputes Act, 1947 on the ground that after joining as Conductor and Driver in the erstwhile Tamil Nadu State Transport Department on 28.12.71 & 17.10.71 respectively, they opted for voluntary retirement and they were also subsequently relieved from service on the afternoon of 31.5.95 & 31.12.94 respectively. When they submitted their further representations to pay them the pension as per the order passed by the Apex Court and G.O.Ms.No.42, Transport (RW) Department dated 27.5.2005 with arrears from 1.1.88, they were not considered stating that they had not put in the qualifying service of ten years. Hence, they approached the first respondent Labour Court as mentioned above and by the orders dated 27.9.2013 passed in C.P.No.59 & 58 of 2009, the Labour Court, framing the issue whether the claim petitions are maintainable under Section 33-C(2) and whether the contesting respondents are entitled for the claim amount, allowed the claim petitions with a direction to the petitioner Corporation to pay the sum of Rs.3,61,847/- each with 12% interest per annum within eight weeks from the date of receipt of the copy of the order.

3. Secondly, the said order was questioned before this Court in W.P.Nos.14330 & 14422 of 2014 by the petitioner and this Court by orders dated 15.6.2014 & 13.6.2014 respectively, dismissed the writ petitions. The relevant paragraphs of the order dated 15.6.2014 passed in W.P.No.14330 of 2014 dated 15.6.2014 read as follows:-

"2. It has now been brought to the notice of this Court that in W.P.No.24136 of 2011 dated 20.07.2012 (M.Brindavanam v. The Secretary to Government, Chennai), this Court has quashed the said Government Order as unconstitutional. When that is so, the qualifying service of the first respondent is to be counted from the date on which he entered into service i.e., on 29.12.1971. If that is done, the petitioner (sic) has got 10 years, 5 months and 3 days of qualifying service and therefore he is entitled for pension.

3. In view of the above, there is no infirmity in the order passed by the Labour Court. Hence, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed."

4. The orders passed in the writ petitions were also confirmed by the Division Bench in Writ Appeal Nos.28 & 29 of 2017 by order dated 24.7.2017. Aggrieved by the order dated 24.7.2017, it is stated that S.L.P.(C) D.Nos.2689 & 2690 of 2018 have been filed and the same are to be listed for hearing on 19.3.2018. The learned counsel for the petitioner submitted that at least till the fate of the aforementioned S.L.P's is decided, the matters may be adjourned.

5. But this Court is not inclined to entertain the writ petitions, for the simple reason that when the Labour Court had already found fault with the petitioner Corporation that after giving an undertaking, they failed to comply with the same, this Court, as a matter of principle, is not inclined to interfere with the discretion exercised in the impugned orders. Accordingly, the writ petitions are dismissed. Consequently, W.M.P.Nos.6522 & 6523 of 2018 are also dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

SS
To

1. The Presiding Officer
III Additional Labour Court
City Civil Court Annex Building
High Court Compound, Chennai 600 104
2. The Secretary to Government
Transport Department
Fort St.George, Chennai 600 009
3. The Managing Director
Metropolitan Transport Corporation
(Chennai) Ltd., Pallavan Illam
Anna Salai, Chennai 600 002

W.P.Nos.5298 & 5299 of 2018

SS(CO)
CS/27/03/18