

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Twentieth day of February Two Thousand Eighteen

PRESENT

THE HON`BLE MR.JUSTICE SATRUGHANA PUJAHARI

WMP No.3919 of 2018

in WP No.28142 of 2016

P.THANIKACHALAM,

[PETITIONER]

Vs

1 THE MANAGEMENT, [RESPONDENTS]
METROPOLITAN TRANSPORT CORPORATION (CHENNAI)
LTD., PALLAVAN HOUSE, ANNA SALAI,
CHENNAI-600 002.

2 THE PRESIDING OFFICER,
THE PRINCIPAL LABOUR COURT,
CITY CIVIL COURT ANNEXURE BUILDING,
HIGH COURT COMPOUND,
CHENNAI-600 104.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Vacate the Stay granted by this Hon'ble Court on 11.08.2016 in WMP No.24274/2016 in WP No.28142/2016 pending WP.No.28142 of 2016.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.R.KRISHNASWAMY, Advocate for the petitioner and of MR.M.CHIDAMBARAM Advocate for the 1st respondent the court made the following order:-

Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents, on the vacate stay petition.

2 As it appears in this case, the petitioner in the writ miscellaneous petition was a workman under the writ petitioner/Management, he was terminated from service challenging which he raised a dispute before the Principal Labour Court, Chennai before the 2nd respondent vide ID No.941 of 2001. In the said dispute, the 2nd respondent had set aside the order of termination and directed the writ petitioner/ Corporation to

reinstate him into service with continuation of service with other attendant benefits and other consequential benefits. The same was challenged in a Writ Petition No.15131 of 2009 by the writ petitioner, which was ultimately dismissed vide order dated 19.08.2011 and the said award of the 2nd respondent in the aforesaid ID dispute, as such, has reached its finality. However, since the direction given by the Labour Court was not complied with in letter and spirit, inasmuch as the backwages and other dues were not properly calculated and paid to the petitioner, the petitioner again filed a Claim Petition No.296 of 2013 under Section 33 C (2) of the ID Act claiming an amount of 22,26,282/- towards the back wages and other attendant benefits before the 2nd respondent. But, the 2nd respondent vide its order dated 13.08.2015 quantified the same to Rs.19,46,246/- and after adjusting the amount of Rs.6,07,699/- already paid towards the back wages and directed the writ petitioner to make payment of the remaining amount of Rs.13,38,547/-. Thereafter, as the same was not been complied with, the workmen filed WP No.19060 of 2016 seeking for a direction to pay the computed amount, which was allowed by this Court vide common order dated 07.06.2016. In the Writ Appeal carried against the said order vide a common order passed in WA(MD) No.303 to 457 of 2015 dated 12.06.2015, the Management/writ petitioner was directed to settle the claim in 12 instalments. Instead of complying with the same, the writ petition has been filed challenging the order passed in the Claim petition in connection with computing the amount, challenging the execution proceedings under Section 33 C (2) to be not just and proper.

3.This Court while issuing notice had stayed the operation of the order passed in CP No.296 of 2013, hence, this writ miscellaneous petition has been filed to vacate such order. It is submitted by the learned counsel appearing for the petitioner that since the award has reached its finality in the ID, inasmuch as, the writ petition as well as the writ appeal filed challenging the said award was not found favoured with by this Court and the award was confirmed under section 33 C (2), the respondent / Labour Court has quantified the same properly and also this Court in WA (MD) No.303 to 457 of 2015 had directed the Management to settle the benefits in 12 instalments by their order dated 12.06.2015, the interim order passed in this case need to be vacated as otherwise the respondent /workmen shall suffer in not getting the wages though he was illegally terminated from service.

4. The learned counsel appearing for the writ petitioner/Management however submits that the writ petitioner being not in sound financial state, they are not in a position to comply with the order, otherwise also, the calculation appears to be not just and proper.

5. Considering the facts and circumstances and submissions made, especially the fact that the present financial condition of the Corporation is not a healthy one, though this Court is not inclined to vacate the order of stay, but directs the 1st respondent / Corporation to deposit a sum of Rs.4,50,000/- (Rupees four lakhs

fifty thousand only) before the 2nd respondent, within a period of two months, on such deposit being made, the 2nd respondent is directed to transfer the same, by RTGS, to the workman concerned.

6. With the aforesaid order, this writ miscellaneous petition stands disposed of.

-sd/-
20/02/2018

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE MANAGEMENT,
METROPOLITAN TRANSPORT CORPORATION (CHENNAI)
LTD., PALLAVAN HOUSE, ANNA SALAI,
CHENNAI-600 002.

2 THE PRESIDING OFFICER,
THE PRINCIPAL LABOUR COURT, CITY CIVIL COURT
ANNEXURE BUILDING, HIGH COURT COMPOUND,
CHENNAI-600 104.

C.C. to M/S.R.KRISHNASWAMY Advocate SR.NO.2075

Order

in
WMP.3919/2018

in
WP.28142/2016

Date :20/02/2018

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