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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/9/2018

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Appeal No.2090 of 2018

The Management
Metropolitan Transport Corporation (Chennai) Ltd
(Formerly known as
Pallavan Transport Corporation, Chennai)
Pallavan House
Anna Salai
Chennai 600 002. ... Appellant

Vs

1. The Presiding Officer
Industrial Tribunal
Chennai.
2. S.T.Jagadeesan ... Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 5/2/2014, made in W.P.No.36475 of 2002 Petition filed Under Section 226 of the constitution of india for a writ of Certiorari to call for the records of the Petition No.1/1997 dated 13.02.2002 on the file of the first Respondent and quash the same.

For appellant ... Mr.M.Chidambaram

For respondents ... Mr.S.T.Varadarajulu
for R.2.

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J U D G M E N T

(Judgment of the Court was made by Subramonium Prasad,J)

Appellant seeks to challenge the order, dated 5/2/2014, passed in W.P.No.36475 of 2002.

2. Short facts leading to the appeal are as follows:-



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Second respondent, was employed as a Conductor, in the appellant Corporation. He was issued with a show cause notice, dated 18/10/1994, stating that he was absent without prior permission. Second respondent has given a reply, stating that he was not keeping good health and his health condition was bad. He has stated that he was having a heart problem and requested for a lighter duty. It was stated by him that instead of sending him, for complete medical examination, he was referred to Medical Board, to examine his neck problem and that the Medical Board, gave an opinion that he was not having any cervical spondylitis.

3. At the time of enquiry, the second respondent submitted that he went for duty, on 13/3/1994, but the appellant Corporation refused to give him duty. Reply given by the second respondent, was not considered and he was dismissed from service. Order of dismissal was challenged by the second respondent, before the Industrial Tribunal, in Complaint No.1 of 1997.

4. Industrial Tribunal, on examining the documents, found that the second respondent was suffering from heart ailment and he had represented to the Corporation that due to his illness, he was not able to do heavy duty and sought for a lighter duty. Second respondent was prepared to forego his daily batta and collection bonus, but lighter duty was not given to him. Tribunal further found that Management has referred his case, to the Medical Board, only to examine the neck problem, on the ground that he had cervical spondylitis, but the Medical Board found that, he was not suffering from the same. Appellant Corporation did not refer him to the Medical Board, for examining his heart problem, for the reasons best known to them. Tribunal found that the second respondent herein had offered to work for a lighter duty, but the Management had refused. Tribunal, therefore, held that workman could not have been blamed, in the light of his health condition. It was only the Management which was responsible for the situation. Tribunal, therefore, set aside the order of termination and directed reinstatement with full backwages.

5. Order of the Tribunal was challenged by the Corporation, in W.P.No.36475 of 2012. After going through the entire record, learned Single Judge, upheld the finding of the Tribunal. Order, dated 5/2/2014, passed by the writ Court, in W.P.No.36475 of 2012, is under challenge, in the present appeal.

6. Heard Mr.M.Chidambaram, learned counsel for the appellant and Mr.S.T.Varadarajulu for the second respondent.



7. We have gone through the materials available on record.

8. Material on record discloses that the second respondent was suffering from heart ailment. Ex.W.3 document, filed by the workman to show that his health condition was informed to the Management and based on the above, he has requested, lighter duty. Management, for the reasons, best known to them, did not refer him to the Medical Board, for his heart problem. There is nothing on record filed by the Management/appellant before the Tribunal, to show that why Management had referred the second respondent, for check up, for Cervical Spondilitis, instead of his heart problem. It is nobody's case that he had only Cervical Spondilitis. In the light of the close discussion, finding of the Tribunal that the Management has to blame themselves, for creating this situation, cannot be said to be manifestly illegal, but deferred to be upheld. This Court is of the considered view that there is no error in the conclusion arrived at by the Industrial Tribunal, first respondent, for granting relief to the second respondent, workman.

9. This Court is aware that the second respondent had attained superannuation and that he was reinstated prior to his superannuation. In the light of the above direction, Writ Appeal is dismissed. The appellant Management is directed to pay full back wages, i.e., from the date of termination till the date of his reinstatement, within a period of eight weeks, from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS ix)

//True Copy//

Sub Assistant Registrar

mvs.

To

1. The Presiding Officer
Industrial Tribunal
Chennai.

+1cc to Mr.S.T.Varadarajulu , Advocate SR.No. 66807

+1cc to Mr.M.Chidambaram , Advocate SR.No. 66561

W.A.No.2090 of 2018

ASK(06/12/2018)