

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.407 of 2018
and C.M.P.No.3458 of 2018

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

-vs-

1.The Presiding Officer,
II Additional Labour Court,
City Civil Court Annexure Buildings,
High Court Building Compound,
Chennai - 600 104.

2.Savithri Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.P No.27999 of 2013 dated
18.02.2016.

W.P.No. 27999 of 2013:

Petition filed under Article 226 of the constitution of
India praying to issue Writ of Certiorarified Mandamus call for
the records relating to the Award of the 1st respondent dated
01.10.2012 in I.D.No.107 of 2009 Quash that portion of Award
declining to grant the terminal benefits such as pension
appointment on compassionate ground and backwages and other
attendant benefits and consequently direct the 2nd respondent to
settle the terminal benefits family pension along with
backwages and other attendant benefits and to offer appointment
on compassionate ground to the petitioner.

For Appellant : Mr.M.Chidambaram

For Respondents: Mr.S.T.Varadarajulu for R2

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN,J.]

The husband of the second respondent was an employee of the Metropolitan Transport Corporation (Chennai) Limited. He was employed as a Driver. He was dismissed from service on account of proved misconduct. Even before raising a dispute challenging the punishment awarded by the Management, the employee died. Thereafter, the second respondent initiated proceedings before the Labour Court in I.D.No.107 of 2009. The Labour Court passed an Award directing the appellant to pay a sum of Rs.3 lakhs to the second respondent. The Award was challenged by the second respondent in W.P.No.27999 of 2013. The very same Award was challenged by the Management in W.P.No.1263 of 2014. The learned single Judge by way of a common order dated 18 February 2016 dismissed the writ petition filed by the Management in W.P.No.1263 of 2014. The writ petition filed by the second respondent in W.P.No.27999 of 2013 was allowed by modifying the direction given by the Labour Court. The learned single Judge directed the appellant to reinstate the workman notionally in service and to pay the monetary and pensionary benefits payable to him. There was a further direction to give compassionate appointment to one of the children of the workman. Feeling aggrieved, the Metropolitan Transport Corporation is before us.

2. We have heard the learned counsel for the appellants. We have also heard the learned counsel for the second respondent.

3. The Labour Court considering the claim made by the second respondent passed a detailed Award in I.D.No.107 of 2009. Since the prayer made in the dispute was not granted by the Labour Court, the second respondent filed the writ petition in W.P.No.27999 of 2013. Feeling aggrieved by the Award, the Management filed the writ petition in W.P.No.1263 of 2014. The learned single Judge taking into account the rival contentions and the entire background facts opined that interest of justice would be subserved by directing the appellant to reinstate the employee in service notionally and pay him all the monetary and pensionary benefits in accordance with law. We do not find any error or illegality in the said order warranting interference in this appeal.

4. The appellant is aggrieved by the direction given by the learned single Judge to give compassionate appointment to one of the children of the workman. There was no such prayer before the Labour Court. The Award also does not contain any such direction for giving compassionate appointment. However, the second respondent made a claim for compassioante appointment

before the Writ Court, which was beyond the purview of the Award in I.D.No.107 of 2009. Since the question regarding compassionate appointment was not the issue before the Labour Court in I.D.No.107 of 2009, the learned single Judge was not correct in granting the relief to the second respondent. We are therefore of the view that the direction with regard to providing compassionate appointment deserves to be set aside.

5. The order passed by the learned single Judge is confirmed with respect to the payment of benefits to the second respondent after notionally reinstating the workman in service. However, the further direction to offer compassionate appointment to the son of the second respondent is set aside. However, we make it clear that this judgment would not stand in the way of the second respondent making application for compassionate appointment in accordance with the rules and regulations framed by the Metropolitan Transport Corporation. We direct the appellant to pay the benefits to the second respondent in accordance with the order passed by the learned single Judge as expeditiously as possible and in any case within a period of eight weeks from the date of receipt of a copy of this judgment.

6. The intra court appeal is allowed to the limited extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

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To

The Presiding Officer,
II Additional Labour Court,
City Civil Court Annexure Buildings,
High Court Building Compound,
Chennai - 600 104.

+1 CC to Mr.S.T. Varadarajan, advocate sr 24980.
+1 CC to Mr.M. Chidambaram, Advocate sr 24810

W.A.No.407 of 2018

CNR(CO)
SP(13/04/2018)