

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE **M.M. SUNDRESH**

W.P. Nos. 1734 & 334 of 2014

The Management of
Metropolitan Transport Corporation(Chennai)Ltd.,
Pallavan Illam, Anna Salai,
Chennai – 600 002.
Rep. By its Deputy Manager

...Petitioner
in both WPs

Vs.

The Special Deputy Commissioner of Labour
D.M.S. Compound,
Chennai

...First Respondent
in both Wps

R. Balasubramanian

...Second Respondent
in WP No.1734/14

M.Balasubramani

... Second Respondent
in WP No.334/14

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Writ Petitions filed under Article of 226 of the Constitution of India
praying for issuance of a writ of mandamus to call for the records of the
order passed by the 1st respondent in Approval Petition In A.P.Nos.405

and 402 of 2011 dated 22.07.2013.

For Petitioner
in all WPs : Ms.Rajeni Ramadoss

For Respondents : Ms.A.Sri Jayanthi,
in all WPs Spl. Government Pleader for R1
Mr.S.T.Varadarajulu for R2

COMMON ORDER

In a batch of writ petitions filed, W.P. Nos. 333 & 335 of 2014 are already disposed of and, therefore, no further orders are required. Thus, we are concerned only with W.P. Nos. 334 & 1734 of 2014.

2. Insofar as W.P. No. 334 of 2014 is concerned, though it was considered but not specifically dealt with. That is the reason, why the subsequent Review Application has been filed. The subject matter of W.P. No. 1734 of 2014 is also identical with that of W.P. No. 334 of 2014. In both the writ petitions, the petitioner challenged the order passed by the first respondent in the Approval Petitions.

3.Learned counsel appearing for the parties would submit that Paragraph 5 of the order dated 09.06.2017 passed in W.P. Nos. 333 to

335 of 2014 would govern this case as well. In view of the aforesaid submission, it will be appropriate to place on record the aforesaid paragraphs:-

"5.Considering the facts of the case, this Court is of the view that an order can be passed balancing the interest of both sides. While on the one hand, the petitioner shall not be made liable for the unauthorised absence of the workmen, and the workmen also shall not be made to suffer for the nature of punishment imposed already. The remittal order made in similar cases, as submitted by the learned counsel for the parties, has become final and therefore at best, the petitioner can only impose a lesser punishment. Hence, considering the above, this Court is of the view that the petitioner shall reinstate the respondents workmen, within a period of eight weeks from the date of receipt of a copy of this order. However, they will not be entitled for any backwages till the date of reinstatement as it is not a matter of right coupled with the fact that they also have a role leading to the proceedings initiated against them. However, they are entitled for continuity of service and other incidental benefits. The petitioner shall also pay the contribution towards Provident Fund in favour of the Trust, since the respondents workmen were unemployed over the years. This is till the period of reinstatement."

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4. Thus, in the light of the above-mentioned paragraph, these two writ petitions, viz., W.P. Nos. 334 and 1734 of 2014 are disposed

of.

6. However, inasmuch as the petitioner in W.P.No.334 of 2014 has neither been reinstated nor 17-B wages have been paid in view of the subsequent development, it is made clear that he is entitled for arrears of 17-B wages till the date of reinstatement. The appropriate arrears will have to be paid within a period of six weeks from the date of receipt of a copy of the order.

7. In the result, the writ petitions stand disposed of. No costs.

31.01.2019

Index : Yes/No

mmi/ssm

To

The Special Deputy Commissioner of Labour
D.M.S. Compound,
Chennai

M.M. SUNDRESH J.

ssm



W.P. Nos. 334 & 1734 of 2014

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