

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.03.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.2349 of 2013
and M.P.No.1 of 2013

The Management
State Express Transport Corporation
(Tamil Nadu) Limited
Pallavan Salai, Chennai 600 002. .. Appellant

Vs.

1.The Joint Commissioner of Labour
(Conciliation), Chennai.

P.S.Kanagaraj (deceased)

2.K.Dhanalakshmi

3.S.K.Lavanya

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 09.01.2012 made in W.P.No.32613 of 2007 on the file of this Court.

PRAYER IN WP.32613 OF 2007:

Writ Petition filed Under Article 226 of the Constitution of India praying to call for the records and quash the order dated 24.04.2006 in A.P.No.285 of 2004. Passed by the 1st Respondents Joint Commissioner of Labour (conciliation), chennai.

For Appellant : Ms.Kala Ramesh
For R2 and R3 : Mr.S.T.Varadarajulu

J U D G M E N T

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

The appellant initiated disciplinary proceedings against P.S.Kanagaraj, the predecessor in interest of the respondents 2 and 3. The disciplinary authority after conducting enquiry, dismissed the deceased employee [hereinafter referred to as "the employee"] from service. Since the dispute was pending before

the statutory authority, the Management filed an approval petition. The approval petition was rejected by the Joint Commissioner of Labour on the ground that the statutory requirements have not been complied with before imposing the punishment. The order dated 24 April, 2006 in Approval Petition No.285 of 2004 was challenged before the writ court in W.P.No.32613 of 2007. During the currency of the writ petition, the employee died on 30 January, 2009. The legal heirs were brought on record.

2. The learned single Judge considered the entire factual matrix and dismissed the writ petition,. The order is under challenge at the instance of the State Express Transport Corporation, Chennai.

3. We have heard the learned Standing Counsel for the appellant. We have also heard the learned counsel for the respondents 2 and 3.

4. The appellant initiated disciplinary proceedings against the employee on account of unauthorised absence. The Enquiry Officer, after enquiry, submitted a positive report. The disciplinary authority, on the strength of the said report, imposed the punishment of removal from service. The mandatory payment of one month wages was not paid by the appellant within the statutory period. A portion of the amount was paid subsequently. Since the dispute was pending, the Management filed an application for approval. The approval petition was considered by the statutory authority and by way of a detailed order, it was dismissed.

5. The order was challenged before the writ court. The learned single Judge once again considered the entire factual background and arrived at a factual finding against the Management.

6. The statutory authority by way of a reasoned order, dismissed the approval petition. The statutory authority is the final Court of facts. It is not within the province of the High Court to re-appreciate the reasons for arriving at a different conclusion.

7. In the subject case, even during the currency of the writ petition, the employee died. The legal representatives are on record. There is no question of re-appreciating the reasons given by the Joint Commissioner of Labour for the purpose of remanding the matter at this point of time. We are, therefore, of the view that the order passed by the writ court does not warrant interference by this Court.

8. The order dated 09 January, 2012 is confirmed.

9. We direct the appellant to pay the terminal benefits due to the employee to the respondents 2 and 3 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.

The intra court appeal is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

gms

To

The Joint Commissioner of Labour
(Conciliation), Chennai.

+1cc to the Government Pleader, S.R.No.22304

+1cc to Mr.KALA RAMESH, Advocate, S.R.No.21814

+1cc to Mr.S.T.VARADARAJULU, Advocate, S.R.No.21984

W.A.No.2349 of 2013

RJI (CO)
TR(23/04/2018)

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