

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2018

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19999 of 2007

And

M.P.No.1 of 2007

P.S.Mohanarangan

... Petitioner

Vs.

1. Metropolitan Transport Corporation
(Chennai) Ltd,
Chennai - 600 002.
Rep by the General Manager,
(Administration).

2.The Joint Commisisoner of Labour,
(Conciliation),
Chennai.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the first respondent in his Pro . No.1594/Sa.Pi.(O.Na)17/MTC/99 dated 26.04.2004 and consequent order of the 2nd respondent in his Approval Petition No.227 of 2004 dated 05.01.2005 and quash the same and consequently direct the first respondent to pass orders reliving the petitioner's brother Mr.P.S.Neervannan as medically unfit from the post of Fitter II, Staff No.A09121, MTC-T. Nagar Depot, Chennai and settle all the monetary benefits and other benefits.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Ms.S.Hemalathan for R1

O R D E R

The petitioner has filed the present writ petition challenging his brother's dismissal order dated 26.04.2004 and the second respondent approval order dated 05.01.2005 and quash the same and pass order reliving the petitioner's brother Mr.P.S.Neervannan as medically unfit from the post of Fitter II, Staff No.A09121, MTC-T. Nagar Depot, Chennai and settle all the monetary benefits and other benefits.

2. On perusal of the records, it is relevant to point out

that the petitioner's brother Mr.P.S.Neervannan unauthorisedly absented himself from 30.09.1999, for which disciplinary proceedings was initiated against him. Accordingly, the first respondent Corporation decided to remove the petitioner's brother from service and issued a show cause notice dated 07.02.2004 to Mr.P.S.Neervannan. Since the said notice received no response, the first respondent Corporation issued general notice in the Tamil Daily and the same was published on 03.03.2004. Pursuant to which, since the petitioner's brother Mr.P.S.Neervannan did not resume to his duty, the first respondent authority decided to remove him from service. Accordingly, the first respondent in his Proceedings No.1594/Sa.Pi.(O.Na)17/MTC/99 dated 26.04.2004 passed the impugned order dismissing the petitioner's brother from its service and the said order was sent to the petitioner's brother along with one month salary by way of a Cheque under section 33 (2) (b) of the Industrial Disputes Act, 1947. The 1st respondent corporation preferred an Approval Petition under section 33(2) (b) of the Industrial Disputes Act, 1947, before the Joint Commissioner of Labour (Conciliation), Chennai, seeking the approval for the dismissal of Mr.P.S.Neervannan.

3. In the Approval Petition repeatedly, six times the matter got adjourned before the 2nd respondent/Joint Commissioner of Labour (Conciliation), Chennai, there was no representation on behalf of the petitioner's brother Mr.P.S. Neervannan. Accordingly, the Approval Petition No.227 of 2014 was allowed on 05.01.2005, against which the present Writ petition has been filed.

4. Now the petitioner's brother viz., Mr.P.S.Neervannan, is no more and it is not possible for this Court to remand the matter again before the Labour Court for fresh agitation.

5. In view of the above, I do not find any merits in the writ petition. Resultantly, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

6. However, this will not stand in the way of the petitioner to claim terminal benefits of his brother till the date of dismissal before the authority by producing the appropriate documents as he is the II class legal heir of the deceased Mr.P.S.Neervannan, on production of the succession certificate which establishes the petitioner as the II class legal heir of the deceased.

Sd/-

Assistant Registrar(CS IX)

//True copy//

Sub Assistant Registrar

rkp

To

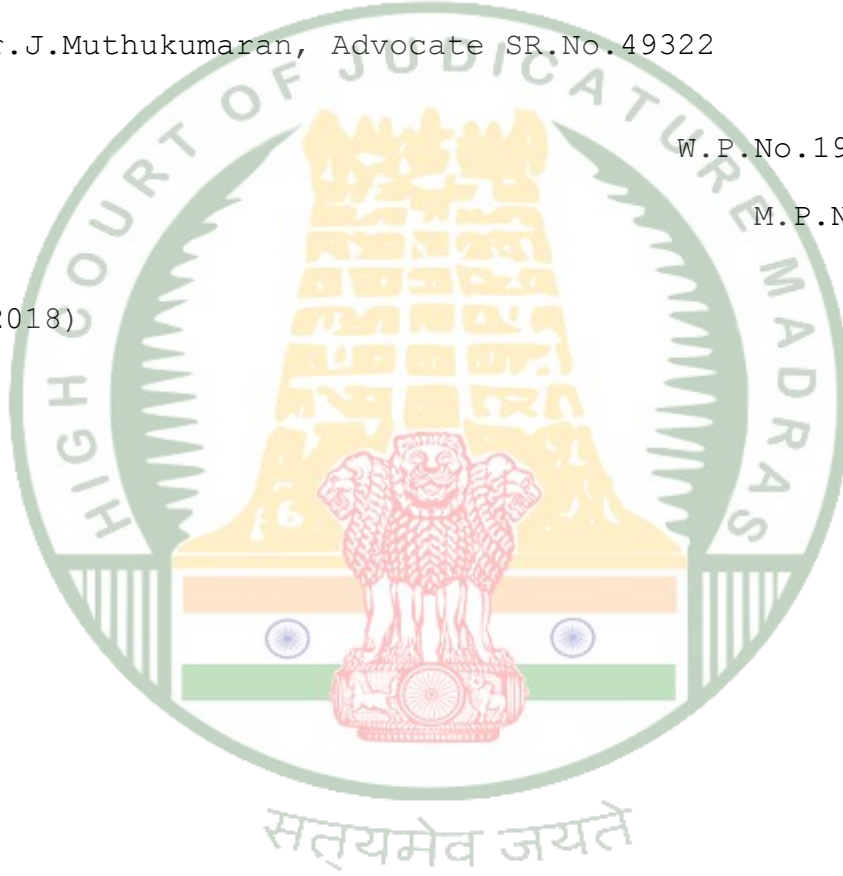
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+1cc to Mr.J.Muthukumaran, Advocate SR.No.49322

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NR(CO)
GN(20/08/2018)



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