



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 30.01.2018
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

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W.P (MD) No.11527 of 2016
and
WMP (MD) Nos.8815 & 8816 of 2016
and
WP (MD) No.17086 of 2014

WP (MD) No.11527 of 2016 :

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Ltd,
Madurai Division,
Bye-Road, Madurai - 625 010.

... Petitioner

Vs.

1.The Special Deputy Commissioner
of Labour,
O/o. Commissioner of Labour,
Chennai - 600 006.

2.G.Vellaisamy,
Conductor, Staff No.CR12803

... Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the first respondent in his proceeding in Approval Petition No.211/2010 dated 26.12.2012, quash the same.

For Petitioner
For Respondents

: Mr.A.Jeyaram
: Mr.J.Gunaseelan Muthaiah,
Addl. Government Pleader
for R1
Mr.T.A.Ebenezer for R2

WP (MD) No.17086 of 2014 :

G.Vellaichamy

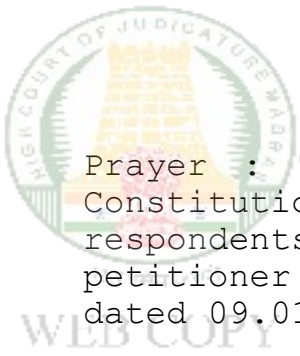
... Petitioner

Vs.

1.The Managing Director,
The State Transport Corporation,
Madurai Ltd,
Madurai District.

2.The General Manager,
The State Transport Corporation,
Madurai Ltd,
Madurai District.

... Respondents



Prayer : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents to calculate and release the retirement benefits to the petitioner consequent to the order passed in WP(MD)No.8030 of 2013 dated 09.01.2014 within a time frame.

For Petitioner : Mr.T.Santhanamariappan
For Respondents : Mr.A.Jeyaram for R1 & R2

ORDER

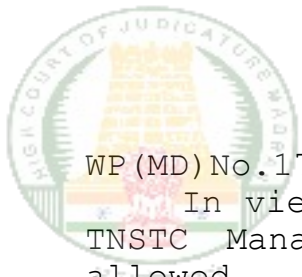
WP(MD)No.11527 of 2016 :

The TNSTC Management has filed this writ petition questioning the order dated 26.12.2012 passed by the first respondent declining to grant approval to the dismissal order passed by the management.

2.The second respondent Vellaisamy was working as a Conductor in the petitioner corporation. An allegation that he had misappropriated a sum of Rs.20/- was made. A charge memo was issued on 14.08.2009. Enquiry was conducted. The Enquiry Officer submitted his report on 15.04.2010. The said charges levelled against the delinquent were held proved. Thereafter, show cause notice was issued and the delinquent was dismissed from service vide order dated 03.12.2010. The petitioner corporation filed an approval petition before the first respondent under Section 33(2)(b) of the Industrial Dispute Act, 1947. The first respondent has given a specific finding that the notice pay for one month was not paid in full to the second respondent herein. Though on other issues the first respondent recorded findings in favour of the management, on this issue of payment of one month notice pay, a finding was rendered in favour of the worker. In that view of the matter, in view of the mandatory requirements set out in the statutory provision, approval was declined. It is this order that is under challenge in this writ petition.

3.The petitioner management is not in a position to show as to how this finding rendered by the first respondent is incorrect. It is true that some amount has been paid to the delinquent. But, then the amount paid to the second respondent did not represent the pay for one month. If the amount for one month payment payable to the delinquent was not paid while making an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, the authority would be justified in dismissing the same. The order passed by the authority cannot be said to be incorrect.

4.In this view of the matter, this Court finds no merit in WP (MD)No.11527 of 2016. It stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.



WP(MD)No.17086 of 2014 :

In view of the dismissal of WP(MD)No.11527 of 2016 filed by the TNSTC Management, WP(MD)No.17086 of 2014 has to be necessarily allowed.

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2. Accordingly, the respondents are directed to disburse the retirement benefits to the petitioner consequent to the order passed by this Court in WP(MD)No.8030 of 2013 dated 09.01.2014. The writ petition is allowed. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Special Deputy Commissioner
of Labour,
O/o. Commissioner of Labour,
Chennai - 600 006

W.P(MD)No.11527 of 2016
and
WMP(MD)Nos.8815 & 8816 of 2016
and
WP(MD)No.17086 of 2014
30.01.2018

SKM

JM/SV MMS/SAR 1/27.02.2018/3P/2C