

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.21920 of 2013

State Express Transport Corporation Ltd.,
Tamil Nadu Division-I,
rep. by its General Manager,
No.2, Pallavan Salai,
Chennai 600 002.

... Petitioner

vs.

1. S.Rajamony

2. The Presiding Officer,
First Addl. Labour Court,
City Civil Court Building,
Chennai 600 104.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking for the issuance of a writ of Certiorari, to call for the records pertaining to the order dated 06.05.2009 made in C.P.No.356 of 2007 on the file of the 2nd Respondent herein and quash the same.

For Petitioner : Mr.M.Chidambaram

O R D E R

Petitioner has come up with this Writ Petition, seeking to quash the order dated 06.05.2009 passed by the 2nd Respondent in C.P.No.356 of 2007.

2. According to the Petitioner/Transport Corporation, the 1st Respondent, while he was working as a Conductor in their Transport Corporation, met with an accident on 01.08.1998 and sustained grievous injuries. The Petitioner/Transport Corporation granted leave to the 1st Respondent from 01.08.1998 to 17.08.1999. After exhausting the medical leave, the 1st Respondent neither turned up to duty nor submitted any leave letter. Hence, according to the Petitioner/Transport Corporation, the 1st Respondent's absence from 05.02.1999 to 12.08.1999 was treated as loss of pay and he was terminated from duty. Thereafter, the 1st Respondent was re-instated into

service as per the order dated 28.11.2002 passed in W.P.No.12104 of 2000. As the said order of reinstatement treated him as a new employee, challenging the same, the 1st Respondent filed W.P.No.4203 of 2003, wherein, this Court directed the Petitioner/Transport Corporation to pay the entire dues to the 1st Respondent and he received the same without any objection.

3. Thereafter, the 1st Respondent filed C.P.No.356 of 2007 before the I Additional Labour Court, Chennai, the 2nd Respondent herein, claiming a sum of Rs.1,83,800/- as settlement. Though the Petitioner/Transport Corporation engaged a Counsel in the said C.P., the Counsel could not appear before the Court and hence, the said Claim Petition was set exparte on 06.05.2009. Based on the said order, the 1st Respondent filed E.P.No.84 of 2011 in C.P.No.356 of 2007. In the meantime, the Petitioner/Transport Corporation filed I.A.No.270 of 2013 in C.P.No.356 of 2007 seeking to set aside the ex-parte order dated 06.05.2009 passed in C.P.No.356 of 2007 and in the condone delay petition, the Court has passed conditional order to deposit a sum of Rs.1,00,000/- to the credit of the above C.P. Since the said amount was not deposited, the order in the Claim Petition became final and challenging the same, the present Writ Petition is filed.

4. Heard the learned counsel for the Petitioner/Transport Corporation and perused the material documents available on record.

5. As on date, a sum of Rs.1,00,000/- ordered to be deposited by the Labour Court has not been deposited by the Petitioner/Transport Corporation, as time expired. Since, the said conditional is an exparte order, both the Petitioner/Management and the 1st Respondent/workman need to be heard. Hence, this Court is inclined to interfere with the impugned order dated 06.05.2009 passed by the Labour Court. Accordingly, the impugned order passed by the Labour Court is set aside and the matter is remitted to the Labour Court for fresh consideration, however, on condition that the Petitioner/Transport Corporation deposits a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Claim Petition No.356 of 2007, as ordered by the Labour Court, together with interest at 12% per annum from the date of filing the Claim Petition, within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. Out of the deposit of Rs.1,00,000/- (Rupees One Lakh only) together with interest to the credit of Claim Petition No.356 of 2007, the 1st Respondent/workman is permitted to withdraw the accrued interest alone and the principal amount lying with the Labour Court shall be deposited in any one of the

Nationalized Banks initially in a Fixed Deposit Scheme for a period of one year, renewable periodically, till a finality is arrived in the matter. The Labour Court shall not adjourn the matter beyond three working days at any point of time.

7. For non-compliance of the interim order dated 12.08.2013 made in M.P.No.1 of 2013 in W.P.No.21920 of 2013, it is open to the 1st Respondent/workman to work out his remedy in terms of the principles laid down by this Court in the case of India Forge and Drop Stampings Ltd., Madras vs. India Forge and Drop Stampings Employees' Union, Madras reported in 1991 (1) LLN 845 and the disposal of the Writ Petition will not preclude the 1st Respondent/workman from invoking his remedy, as non-compliance of the order is a continuous one and the principle of Doctrine of Merger will not apply to this situation.

The Writ Petition is disposed of with the above direction and observation. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

(aeb)
To:

The Presiding Officer,
First Addl. Labour Court,
City Civil Court Building,
Chennai 600 104.

+1cc to M/s.M.Chidambaram, Advocate Sr.61143

W.P.No.21920 of 2013

ppa[co]
srg 26/09/2019