

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.37372 of 2015

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai 600 002.

... Petitioner

vs.

1. G.Baskar Raj
2. The Presiding Officer,
Principal Labour Court,
City Civil Court Annexure Buildings,
High Court Compound,
Chennai 600 104.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, calling for the records pertaining to the order passed in C.P.No.327 of 2011, dated 31.10.2014 on the file of the 2nd Respondent herein and quash the same.

For Petitioner : Mr.M.Chidambaram

For 1st Respondent : Mr.Senthil Nathan

ORDER

Petitioner has come up with the above Writ Petition challenging the order dated 31.10.2014 passed by the 2nd Respondent in C.P.No.327 of 2011.

2. According to the Petitioner/Management, the Labour Court ought to have rejected the claim of the the 1st Respondent/employee and that he will not be entitled to any of the reliefs sought in Claim Petition No.327 of 2011, more so, with regard to the Earned Leave Salary for 49 days, as he did not work on the principle of 'No Work No Pay'.

3. It is stated that on account of the industrial dispute pending before the Labour Court, Approval Petition in A.P.No.121 of 1994 was filed by the Petitioner/Management seeking approval of dismissal of the 1st Respondent/employee. Pursuant to the dismissal of the Approval Petition by the Industrial Tribunal by an order dated 30.09.1997, the 1st Respondent/employee filed Claim Petition No.88 of 1999 claiming backwages from the date of termination till the date of reinstatement and the Labour Court passed an order on 22.12.2006 allowing the Claim Petition and the entire amount, as directed by the Labour Court, was paid to the 1st Respondent/employee.

4. Though other benefits have been granted to the 1st Respondent/employee, the relief pertaining to the grant of 49 days Earned Leave salary alone has been rejected. Even assuming that the 1st Respondent/employee is entitled to the said relief, this Court has got ample powers to deprive him the said relief, as he has not rendered any service.

5. Learned counsel appearing for the 1st Respondent/employee submitted that even though the 1st Respondent is entitled to medical benefits for 180 days, he has not preferred any Writ Petition for non-grant of the relief pertaining to 49 days Earned Leave salary. However, with regard to the other benefits, the Labour Court has taken note of the submissions of the parties and computed the amount payable to the 1st Respondent/employee. It is his contention that when the 1st Respondent/employee is deemed to be in service on rejection of the Approval Petition, his claim for 49 days Earned Leave Salary is not permissible.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. It is not in dispute that the 1st Respondent/employee was dismissed from service during the pendency of the Industrial Dispute and the Approval Petition filed by the Petitioner/Management was rejected and the Writ Appeal filed against the same in W.A.Nos.1317 and 1318 of 2009 were dismissed by an order dated 16.09.2009. On the basis of the dismissal of Approval Petition, C.P.No.88 of 1999 was filed and it was allowed on 22.12.2006 with a direction to the Respondent to pay a sum of Rs.2,32,663/-.

8. The contention of the Petitioner/Management that on the principle of 'No Work No Pay', the 1st Respondent/employee would not be entitled to any benefit much less 49 days Earned Leave Salary, cannot be accepted. Once the Approval Petition is rejected, the 1st Respondent/employee is deemed to be in service and the order of dismissal passed by the Petitioner/Management is nonest in the eye of law.

9. At this juncture, it is worth referring to the decision rendered in the case of Tata Iron And Steel Company Ltd. vs G. Ramakrishna Ayyar reported in 1950 LLJ 1043, wherein, it is held that the order passed by the Labour Court/Tribunal rejecting the Approval Petition is more effective than the order of reinstatement passed in an industrial dispute, as rejection of Approval Petition would mean that the employee is deemed to be in service and that he would be entitled to all the benefits.

10. In view of the same, this Court finds that the Labour Court has rightly granted the relief sought for by the 1st Respondent/employee and the order passed by the Labour Court requires no interference. If any amount lies to the credit of C.P.No.327 of 2011 before the Labour Court, the same shall be withdrawn by the 1st Respondent/employee by filing necessary Application and the Labour Court shall release the amount together with accrued interest within a period of 60 days from the date of filing the Application and the remaining amount shall be paid by the Petitioner/Management directly to the 1st Respondent/employee by way of a Demand Draft, within a period of 60 days.

11. In case of non-payment of the amount as directed by the Labour Court within 60 days, the amount, which has not been deposited together with accrued interest, would carry interest at 15% per annum from today.

In fine, this Writ Petition stands dismissed as devoid of merits. No costs. Consequently, connected M.P.No.1 of 2015 is also closed.

Sd/-

Assistant Registrar (CS-IV)

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Sub Assistant Registrar

(aeb)

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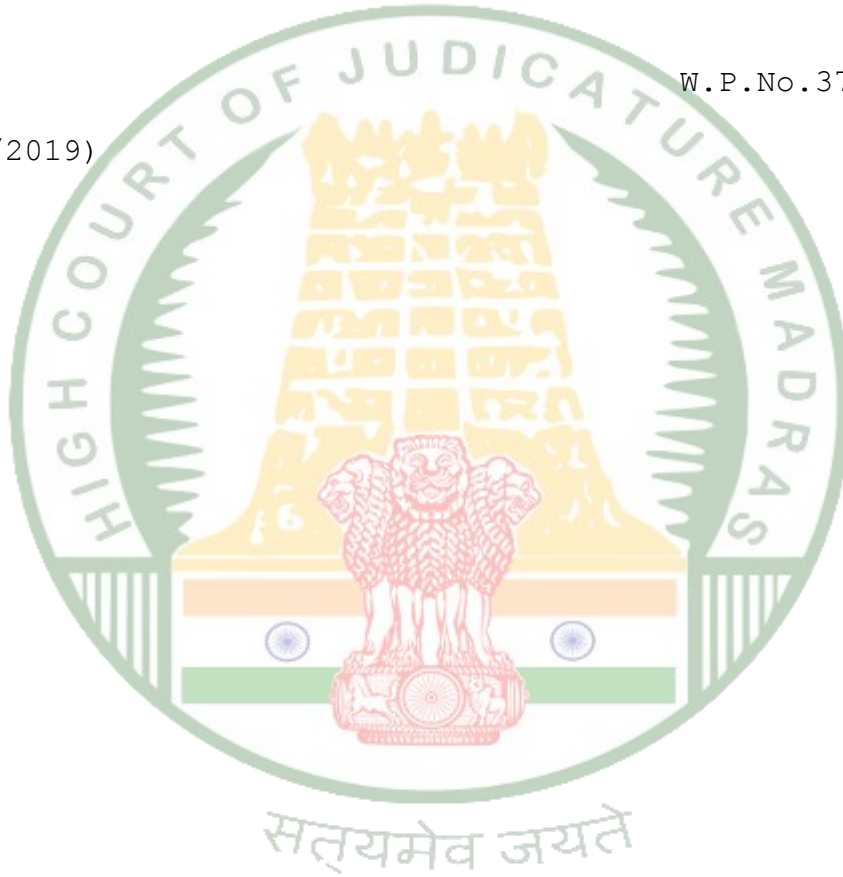
The Presiding Officer,
Principal Labour Court,
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Chennai 600 104.

+1 cc to Mr.S.Senthil Nathan, Advocate, S.R.No.68233

+1 cc to Mr.M.Chidambaram, Advocate, S.R.No.68143

RGN(CO)
SSM(09/09/2019)

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