

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10-09-2019

Coram

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7167 of 2017

And

W.M.P.No.7793 of 2017

The Management,  
State Express Transport Corporation TN Ltd.,  
Pallavan Salai,  
Chennai-600 002. ... Petitioner

vs.

1.The Special Deputy Commissioner of Labour,  
Teynampet,  
Chennai.

2.W.Gurusamy, Driver, EDP No.3989  
.. Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the order passed by the first respondent in Approval Petition in A.P. No.373 of 2011 dated 28.05.2014 and to quash the same as illegal.

For Petitioner : Mr.R.P.Prathap Singh

For Respondent No.1 : Mr.M.Elumalai,  
Government Advocate.

For Respondent No.2 : Mr.V.Ajoykhose

O R D E R

The order of the first respondent dated 28.5.2014 passed in A.P.No.373 of 2011 is under challenge in the present writ petitioner.

2. The writ petitioner is the State Express Transport Corporation Tamil Nadu Limited. The second respondent was employed as a Driver attached to the Coimbatore Depot of the writ petitioner-Transport Corporation. On 22.6.2009, the second respondent workman was assigned duty in Bus No.838, vehicle

bearing Registration No.TN-01-N-7923, which was plied from Coimbatore to Bangalore. The said vehicle had hit against a Motorcyclist in a head on collision, which resulted in death of the motorcyclist.

3. A charge memo was issued on 01.08.2009 and the second respondent-workman submitted his reply. Not satisfied with the reply of the second respondent-workman, an enquiry was conducted by the Enquiry Officer. A fair opportunity to examine the evidences were provided to the second respondent. Based on the findings of the Enquiry Report, the second respondent-workman was dismissed from service on 28.05.2014.

4. The writ petitioner-Corporation filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 in A.P.No.373 of 2011. Since the industrial dispute was pending before the first respondent during the relevant point of time, the writ petitioner-Transport Corporation sent one month salary as well as the Form 'T' to the second respondent-workman. Simultaneously, an approval was also sought in A.P.No.373 of 2011. The grievance of the writ petitioner-Corporation is that the approval petition was rejected. Challenging the same, the present writ petition is filed.

5. The learned counsel for the writ petitioner-Transport Corporation as well as the learned counsel appearing on behalf of the second respondent-workman made a submission that during the relevant point of time, the second respondent-workman confined the compensation amount to Rs.2 lakhs towards backwages. In view of the fact that the second respondent-workman restricted his claim for backwages to Rs.2 lakhs, the said amount was paid by the writ petitioner-Transport Corporation through an interim order. However, the fact remains that the second respondent-workman reached the age of superannuation and therefore, the question of reinstatement would not arise at this length of time.

6. However, the terminal and pensionary benefits due to the second respondent-workman are to be settled in accordance with the Corporation Rules in force. It is made clear that the second respondent-workman had already received a sum of Rs.2 lakhs towards the backwages. Pursuant to the order dated 28.05.2014, the second respondent-workman is entitled to get the terminal and pensionary benefits due to him as per the Corporation Rules in force and on account of the pendency of the present writ petition, the said benefits are not settled to him.

7. This being the factum, this Court is of the opinion that no further interference in respect of the order dated 28.05.2014 in Approval Petition No.373 of 2011 is required. Accordingly,

the writ petitioner-Transport Corporation is directed to settle the terminal benefits due to the second respondent-workman as expeditiously as possible. It is further made clear that the second respondent-workman is not entitled for any backwages.

8. With the above directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Management,  
State Express Transport Corporation TN Ltd.,  
Pallavan Salai,  
Chennai-600 002.

2.The Special Deputy Commissioner of Labour,  
Teynampet,  
Chennai.

+1cc to Mr.V.Ajoy Khose, Advocate Sr.No.78243

+1cc to Mr.R.P.Prathab Singh, Advocate Sr.No.78337

AKM/25.09.19 /3P-5C/

W.P.No.7167 of 2017

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