



WEB COPY

C.M.P.(MD)No.10225 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)Nos.1149 and 1150 of 2019

and

C.M.P. (MD)No.10225 of 2019

The Management,
Tamil Nadu State Transport Corporation
(Kumbakonam Division II) Limited,
Rep. by its Managing Director,
Periyamilaguparai, Tiruchirapalli.

... Appellant/Petitioner
in WA (MD)No.1149/2019

...Appellant/Respondent
No.2 in WA (MD)No.1150/2019

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirapalli.

...Respondent No.1/Respondent No.1 in
WA (MD)No.1149/2019

...Respondent 2/Respondent No.1 in WA
(MD)No.1150/2019

2.G.Thiyagarajan

...2nd Respondent/2nd Respondent in WA
(MD)No.1149/2019

...Respondent No.1/Petitioner in WA
(MD)No.1150/2019

PRAYER: Writ Appeals are filed under Clause 15 of the Letter Patent Act, to set aside the order passed in W.P.(MD)Nos.23558 of 2015 and 3479 of 2018, dated 20.11.2018.

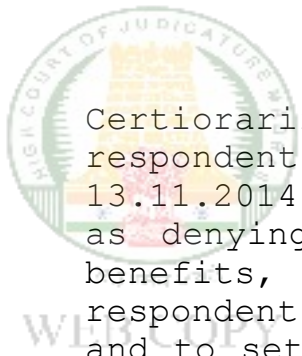
Prayer in WP(MD). 23558/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the award passed by the 1st respondent herein dated 13.11.2014 in ID.No.143 of 2002 and quash the same.

Prayer in WP(MD). 3479/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of

<https://hccservices.tamilnadu.gov.in/services/Case-Details.aspx?CaseID=10225>



Certiorarified Mandamus after calling for the records from the 1st respondent Labour Court relating to the impugned award dated 13.11.2014 in I.D.No.143/02 passed by the 1st respondent in so far as denying the petitioner 50 % back wages and other attendant benefits, quash the same and consequently to direct the 2nd respondent to pay him full back wages from 27.02.02 to 30.08.08 and to settle all his terminal and pension benefits by giving him continuity of service

For Appellant : Mr.D.Sivaraman

For Respondent : Mr.Ajay Khose for M/s.S.Arunachalam
(R2 in W.A.(MD)No.1149/2019
and R1 in W.A.(MD)No.1150/2019)

JUDGMENT

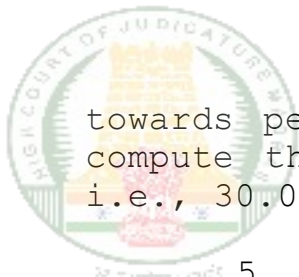
[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.D.Sivaraman, learned counsel for the appellant and Mr.Ajay Khose, learned counsel for the private respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. The appellant, the Tamil Nadu State Transport Corporation, Kumbakonam Division II Limited is the Management under whom the second respondent was working as Night Watchman. Based on the allegation that he was found sleeping at about 02.20 a.m., on 09.10.2001/10.10.2001, charge proceedings were initiated, which was ultimately ended in an order of dismissal from service.

3. The workman raised a dispute before the labour Court, Trichy in I.D.No.143 of 2002, which passed preliminary award holding that the domestic enquiry conducted by the appellant / Management was not fair and proper. Accordingly, the labour Court permitted the parties to lead evidence. Upon such direction, the appellant has led evidence and the labour Court after having considered the oral and documentary evidence passed an award directing reinstatement of the workman with 50% back wages.

4. This order was challenged by the Management in W.P.(MD) No.23558 of 2016. The first respondent / workman filed W.P.(MD) No.3479 of 2018, challenging denial of 50% back wages. Both matters were heard together by the learned Single Bench and it was held that there is no ground to interfere with the award of the Labour Court. The Management was directed to pay the contribution



towards pension fund, treating the workman as in service and to compute the payments till he attained the age of superannuation i.e., 30.08.2008.

5. We find that the learned Single Bench while issuing direction had directed the Management to pay employees contribution towards pension fund, which appears to be a typographical mistake, since contribution is required to be paid by the employer. Considering the reasons assigned by the learned writ Court, more particularly in paragraph No.5 of the impugned order, we find that the appellant has not made out any ground to interfere with the order passed by the learned Single Bench. Further, we find that the learned Single Bench rightly took note of the legal position with regard to the scope of interference in the award passed by the labour Court under Article 226 of the Constitution of India.

6. The relief granted by the learned writ Court, by directing the appellant / Management to pay the employers contributions towards pension fund did not form part of the award passed by the labour Court, which was impugned before the learned Single Bench. In our considered view the appellant / Management should be directed to pay the employers contributions towards pension fund and at the same time they should be permitted to deduct the said amount from and out of the benefits payable to the respondent / workman pursuant to the order passed in the writ petition. This order will meet the ends of justice.

7. Accordingly, while dismissing the writ appeals, we partly modify the directions issued by the learned writ Court by directing the appellant / Management to pay the employers contributions towards pension fund and permit the appellant / Management to deduct the said amount from and out of the retirement benefits payable to the respondent / workman. The time for compliance of the direction as ordered by the learned Writ Court is extended by a period of six weeks from the date of receipt of a copy of this order. It is made clear that the deduction shall be only with regard to 50% of the back wages, which has been denied to the workman and not to the remaining 50%. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

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Sub Assistant Registrar (CS)



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To தமிழ்நாடு உயர் நீதிமன்றம்

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The Presiding Officer,
Labour Court,
Tiruchirapalli.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-96784[F] dated
07/11/2019)

ORDER MADE IN
W.A. (MD) Nos.1149 and 1150 of 2019
07.11.2019

_KM/ (24.11.2019) 4P 3C