

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2020

CORAM

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.NO.4519 OF 2020

S.Kavitha

...Petitioner

vs.

1.The Managing Director
Metropolitan Transport Corporation
Anna Salai, Pallavan Illam
Chennai-600 002.

2.The Joint Commissioner of Labour
(Special) DMS Compound
Teynampet,
Chennai-600 006.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the proceedings No.C1/020063/2019 dated 26.07.2019 of the 2nd respondent, quash the same and consequently, direct the 2nd respondent to restore A.P.No.573 of 2011 on file and to decide the approval petition on merit.

For Petitioner : Mr.S.T.Varadarajalu

For Respondents: Mr.K.Moorthy, for R1
Mr.D.Suriyanarayanan
Additional Government Pleader, for R2

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O R D E R

Mr.K.Moorthy, learned counsel takes notice for the first respondent. Mr.D.Suriyanarayanan, learned Additional Government Pleader takes notice for the second respondent. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed challenging the order of the second respondent dated 26.07.2019. Consequently, the petitioner seeks for a direction to the second respondent to restore A.P.No.573 of 2011 and decide the same on merits and in accordance with law.

3. Heard both sides.

4. The petitioner's husband joined the service of the first respondent as a driver and he was dismissed from service by an order dated 05.05.2008. An approval petition was filed after a period of 3 years in A.P.No.573 of 2011 seeking for approval of the said dismissal. But, in the meantime, the petitioner's husband died on 10.08.2010. It is claimed by the petitioner that no notice was served on the said proceedings arising out of the approval petition. However, the second respondent passed an order on 14.06.2011 allowing the approval petition. Therefore, the petitioner filed restoration petition on 10.06.2019 to restore the said A.P.No.573 of 2011 and to decide the same on merits. However, the second respondent rejected the said petition by holding that the very approval petition filed was belated one and therefore, the petitioner's application seeking for restoration cannot be entertained. Therefore, the present writ petition is filed challenging the order of the second respondent.

5. Perusal of the impugned order would show that the second respondent has not applied his mind to the facts and circumstances of the case before rejecting the petitioner's application seeking for restoration of A.P.No.573 of 2011. It is not in dispute that the said A.P.No.573 of 2011 was allowed ex-parte. Therefore, the petitioner filed an application seeking for restoration of A.P.No.573 of 2011. The second respondent has expressed that the very application seeking for approval was belated one. If that be the case, the second respondent ought to have restored the approval petition and pass fresh orders on merits and in accordance with law, after hearing both the parties, instead of dismissing the application filed by the petitioner seeking for restoration. Therefore, I find that the order of the second respondent cannot be sustained.

6. Accordingly, this Writ Petition is allowed and the impugned order is set aside. Consequently, the matter is remitted back to the second respondent to restore A.P.No.573 of 2011 and pass orders on the same on merits and in accordance with law, after hearing the Management as well as the petitioner. Needless to say that the issue with regard to the

limitation also can be considered and decided while disposing the said approval petition. The second respondent shall dispose and pass orders on the said approval petition within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

mk

To

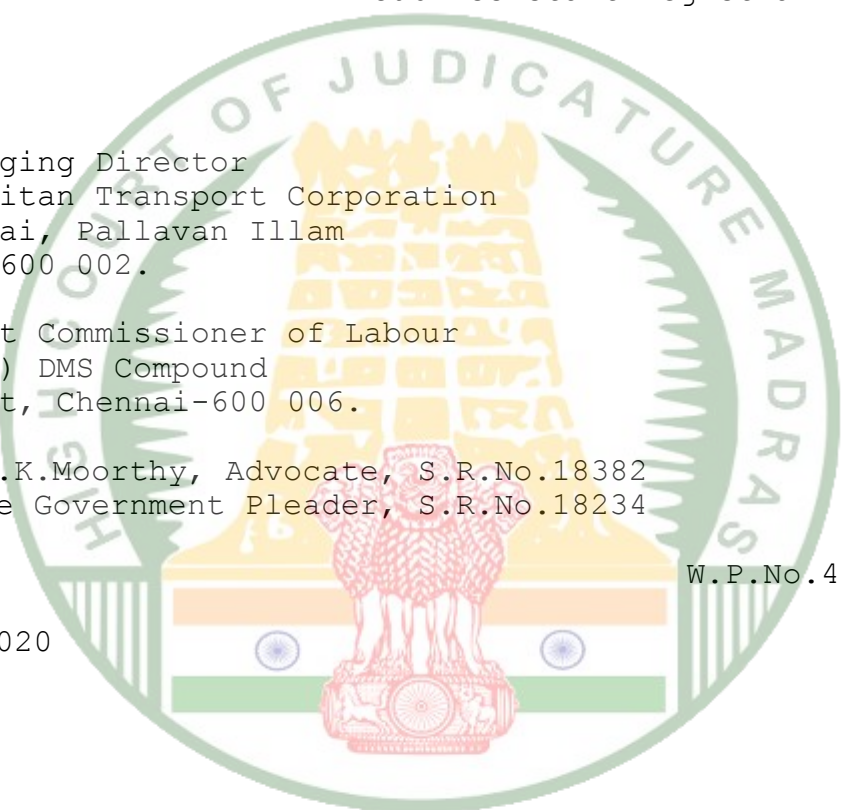
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Teynampet, Chennai-600 006.

+1cc to Mr.K.Moorthy, Advocate, S.R.No.18382
+1cc to the Government Pleader, S.R.No.18234

AD(CO)
CS/04/03/2020

W.P.No.4519 of 2020

The seal of the High Court of Madras is a circular emblem. It features a central illustration of the Lion Capital of Ashoka, which is a four-lion capital standing on a square base. The capital is flanked by two smaller lions. The entire emblem is set against a background of a green and white striped field. The words "HIGH COURT OF JUDICATURE MADRAS" are inscribed in a circular border around the central emblem. Below the emblem, the motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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