



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.11.2021
CORAM
THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU
W.P. No. 26255 of 2010
and
M.P. No. 1 of 2010

V.Raja

... Petitioner

-vs-

1. The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Salai,
Chennai - 600 002.

2. The General Manager,
Metropolitan Transport Corporation (Chennai) Ltd.,
Anna Salai,
Chennai - 600 002.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, praying to call for the entire records connected with the proceeding of the Respondent in Memo No. 14011/M.C.P./MTC/2009 dated 20.11.2009 to quash the same consequently direct the Respondent to pay wages to the Petitioner.

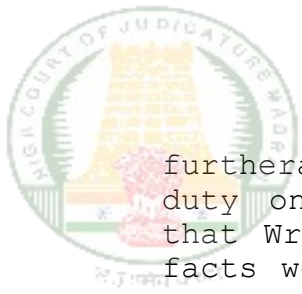
For Petitioner : Mr. R.Karthikeyan

For Respondents : Mr. K.Murthy, Standing Counsel

O R D E R
(through video conference)

Heard Mr. R.Karthikeyan, Learned Counsel for the Petitioner and Mr. K.Murthy, Learned Standing Counsel for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was working as Driver in the Transport Corporation of the Petitioner from 01.08.1986 onwards. According to him, when he reported for duty on 18.06.2008, he was not permitted to work and he had filed the Writ Petition in W.P. No. 16156 of 2008 before this Court in that regard. During the hearing of that Writ Petition on 18.07.2008, it had been submitted by the Second Respondent that if the Petitioner reports for duty, employment would be provided to him. In



WEB COPY

furtherance thereto, the Petitioner claims to have reported for duty on 21.07.2008 before the Respondents. Subsequently, when that Writ Petition came up for hearing on 11.08.2009, the said facts were recorded and the Petitioner was required to submit a representation for the wages for the period from 18.06.2008 to 21.07.2009 and the concerned authority was directed to dispose the same within the stipulated time limit. This Court thereafter by an order dated 27.08.2010 in Contempt Petition No. 1370 of 2009 filed by the Petitioner for violation of the aforesaid order, observed that the representation made by the Petitioner had been rejected by Order in Memo No. 14011/M.C.P./ MTC/2009 dated 20.11.2009 passed by the Second Respondent and if the Petitioner is aggrieved, he has to agitate his rights in the manner known to law and closed that Contempt Petition. In that backdrop, the present Writ Petition has been filed challenging the Order in Memo No. 14011/M.C.P./ MTC/2009 dated 20.11.2009 and for consequential direction to the Second Respondent to pay wages to the Petitioner as claimed by him.

3. The Second Respondent in the Order in Memo No. 14011/M.C.P./ MTC/2009 dated 20.11.2009 has rejected the claim for wages made by the Petitioner for the period from 10.06.2008 to 21.07.2008 applying the principle of 'no work, no pay' as he had not attended to duty. There is apparently a factual dispute as to whether it was the Petitioner who had not reported for duty during the relevant period or that the Respondents had refused to permit the Petitioner to work despite him reporting for duty. It would obviously be dependant upon such outcome that the claim made for wages could be determined. It is not possible for this Court following summary procedure to carry out any roving enquiry to get at the truth of the divergent claims of the contesting parties. The jurisdictional Labour Court has been empowered in terms of Section 33-C(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the I.D. Act' for short), to determine any monetary claim made by a workman against his employer arising out of pre-existing right under a statute or settlement. It cannot be disputed that the right to wages claimed by the Petitioner in the instant case is a statutory right, which could be considered in an application under Section 33-C(2) of the I.D. Act by adjudicating on merits the aforesaid factual dispute on the basis of evidence lead by the parties.

4. When the aforesaid legal position was pointed out, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to that procedure and he has made an endorsement to that effect in the court record.

5. In such circumstances, the Writ Petition is dismissed as withdrawn granting such liberty. Though obvious, it is made



clear that no view has been expressed by this Court on the correctness or otherwise of the impugned order and the jurisdictional Labour Court shall not be inhibited or influence by the same and shall dispose such application, if filed, by reasoned order following the prescribed procedure in consonance with the principles of natural justice in accordance with law. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vjt/skr

To

1. The Managing Director,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Salai,
Chennai - 600 002.
2. The General Manager,
Metropolitan Transport Corporation (Chennai) Ltd.,
Anna Salai,
Chennai - 600 002.

+1cc to Mr.K.Moorthy, Advocate, S.R.No.60094

+2cc to Mr.R.Karthikeyan, Advocate, S.R.No.59607

W.P. No. 26255 of 2010

(CO)
KM(25/11/2021)