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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.NO.21280 OF 2013

The Management,
Tamilnadu State Transport Corporation,
Villupruam Ltd.,
Villupuram Circle,
Vellore - 632 009.
Rep. by its General Manager

...Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court, Vellore.
2. T.Koteeswaran,
Driver, Service No.5406,
Authorized Representative,
General Secretary,
Tamil Nadu State Transport Corporation,
AITUC Employees Union,
Vellore - 13.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the 1st respondent's award passed in I.D.No.2 of 2010 dated 04.05.2011 and quash the same as illegal.

For Petitioner : Mr.C.S.K.Sathish



ORDER

The second respondent herein is a member of the Tamil Nadu State Transport Corporation, AITUC Employees Union, whose punishment of stoppage of increment for a period of 1 year, with cumulative effect and recovery of Rs.35/- towards damages, imposed on 17.07.2004, was set aside by the first respondent, through the impugned award dated 04.05.2011.

2. Though notice has been served on the second respondent and their name is printed in the cause list, none appears on their behalf.

3. As rightly pointed out by Mr.C.S.K.Sathish, learned counsel appearing for the petitioner-Corporation, the second respondent may not have a locus to raise the dispute before the Labour Court in the year 2010, when their member, namely T.Koteeswaran, had already retired on 31.08.2009 itself and had, in the mean time, suffered the punishment and had consequently received the entire retirement benefits. It is stated that the workman is also receiving his pension as on date.

4. Apparently, the original punishment was imposed on 17.07.2004 and after about 6 years and after his retirement, the Trade Union had chosen to raise the dispute.

5. The Hon'ble Supreme Court, in the case of Manoj Bhai N.Shah and others Vs. Union of India and others reported in 2015 (4) SCC 482, had held that, in normal circumstances, when an employee retires from service, his relationship with the employer comes to an end and re-determination of the issues concerning his service period, is impermissible. In this background, it is seen that when the concerned Driver was no longer under the employment of the Transport Corporation and there was no employer/employee relationship existing on the date of raising of the dispute, the Labour Court was not justified in adjudicating the dispute and rendering a finding. Even otherwise, the second respondent herein does not seem to be interested in defending the present writ petition. As such, I do not find any justification on the part of the Labour Court in passing the impugned award.



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6. Accordingly, the impugned award dated 04.05.2011 passed by the first respondent herein is quashed and the Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

hvk

To

1. The Presiding Officer,
Principal Labour Court, Vellore.
2. The General Manager,
Tamilnadu State Transport Corporation,
Villupruam Ltd.,
Villupuram Circle,
Vellore - 632 009.

+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No.43582

W.P.No.21280 of 2013

AD(CO)
RLP(23/09/2021)