



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.08.2021

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 28048 of 2012

and

M.P. No. 1 of 2012

The Management,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd., Vellore Region,
Rangapuram, Vellore - 632 009.
Rep. by its General Manager.

... Petitioner

-vs-

1. The Presiding Officer,
Additional Labour Court,
Vellore District,
Vellore.

2. A.Devika

... 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 in C.P. No. 150 of 2008 dated 30.06.2010 on the file of the Additional Labour Court, Vellore, Vellore District and to quash the same.

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

For Second Respondent : Mr.N.Ramesh for R2

: R-1 Court

O R D E R
(through video conference)

Heard Mr. C.S.K.Sathish, Learned Counsel for the Petitioner and Mr. N.Ramesh, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.



2. The husband of the Second Respondent, viz., M.Arumugam, who was working as driver in the Transport Corporation of the Petitioner, had been terminated from service by an order No. 24820/TNTC/2000 dated 30.08.2001 and subsequently, he died on 02.08.2002. The Second Respondent filed a Claim Petition in C.P. No. 150 of 2008 before the Additional Labour Court, Vellore (hereinafter referred to as 'the Labour Court' for short) under Section 33-C(2) of the Industrial Disputes Act, 1947, (hereinafter referred to as 'the Act' for short) against the Petitioner for payment of family pension. According to the Petitioner, in terms of Rule 21(a) of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules as approved by the Government of Tamil Nadu in G.O. (Ms) No. 135 Transport (D) Department dated 15.12.2000, an employee, who has been removed or dismissed from service, is not entitled to pension and as such, the Second Respondent seeking family pension as wife of the said M.Arumugam, who had been dismissed from service by the Petitioner, would not be entitled to receive that benefit. However, it appears that the Counsel engaged by the Petitioner to appear on its behalf had not attended the hearings before the Labour Court which resulted in passing of an exparte order dated 30.06.2010 in favour of the Second Respondent granting the family pension aggregating to a sum of Rs. 2,27,200/-. The Petitioner has challenged the said order in this Writ Petition.

3. Learned Counsel for the Petitioner submits that inasmuch as the matter had been entrusted to the Panel Advocate of the Petitioner to conduct the case before the Labour Court, it was under the bonafide impression all along that he was attending to the case and on coming to know that the exparte order has been passed, its certified copy had been applied and obtained through the Counsel, who had been bedridden for nine months due to an accident, and after he had handed over the same, the present Writ Petition has been filed. Apart from pointing out that the Second Respondent would not be entitled to the family pension as her deceased husband had been dismissed from the service, it is further explained that the concerned authority for disbursement of pension to the retired employees in the Transport Corporation of the Petitioner is the Tamil Nadu State Transport Corporation Employees Pension Trust, who is a necessary party for the effectual and complete adjudication of the dispute. In these circumstances, it is contended that the exparte order dated 30.06.2010 in C.P. No. 158 of 2008 passed by the Labour Court requires to be set aside and the matter remitted for fresh consideration.

4. The explanation offered by the Petitioner for not appearing during the hearings before the Labour Court and the



delay in taking steps to get the exparte order set aside, as noticed earlier, is seemingly desultory. At the same time, it cannot be lost sight of the fact that the liability incurred by the Petitioner, which is a Public Transport Corporation, to be met out from the public funds, has to be circumspectly determined. In that backdrop, it would subserve the interests of justice to impose the condition that the Petitioner shall pay the sum of Rs. 10,000/- (Rupees Ten Thousand only) by way of Demand Draft towards costs to the Second Respondent under written acknowledgment and report before the Labour Court by 30.09.2021 peremptorily, for setting aside that exparte order, failing which the impugned order shall stand automatically confirmed without any further reference to this Court. In the event of the Petitioner complying with the said condition within that stipulated time limit, the exparte order dated 30.06.2010 in C.P. No.150 of 2008 passed by the Labour Court shall be treated as having been set aside, and the claim petition in C.P. No. 150 of 2008 shall be restored to its file, and the matter shall be listed for hearing on 20.10.2021 before the Labour Court. The Petitioner shall file its Counter in C.P. No. 150 of 2008 on that date, if not already filed, and the contesting parties shall appear in person or through their authorized representative. If the Labour Court is not in a position to take up the matter on the said date, the date to which it is adjourned shall be informed in the prescribed manner. It shall be ensured by the Labour Court that there is atleast one effective hearing every week showing progress of the case, that full opportunity of hearing is afforded to all parties concerned following the prescribed procedure in consonance with the principles of natural justice, that reasoned orders are passed dealing with each of the contentions raised by them on merits and in accordance with law, that the decision taken is communicated to the concerned parties under written acknowledgment and that proof of such compliance is filed by 28.02.2022 before the Registrar (Judicial) of this Court.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

DM/KV



To

1. The Presiding Officer,
Additional Labour Court,
Vellore District,
Vellore.

Copy To:-

1. The Registrar (Judicial)
Madras High Court,
Chennai - 600 104.
2. The General Manager,
Management,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd., Vellore Region,
Rangapuram, Vellore - 632 009.
3. A.Devika,
W/o.Late.Arumugam,
No. 243, Phase I,
Sathuvachari,
Vellore - 632 009.

+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No.42603

W.P. No. 28048 of 2012
and M.P. No. 1 of 2012

GMR(CO)
TE (03/09/2021)