



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9651 of 2018 and  
WMP No.11574 of 2018

The Management,  
Tamil Nadu State Transport Corporation  
(Coimbatore) Limited,  
Chennimalai Road,  
Erode-1.

... Petitioner

-vs-

1. Ms.Sasireka  
2. Mr.Diwakar  
3. Ms.Deepavani

4. The Presiding Officer,  
Labour Court, Salem.

5. Tamil Nadu State Transport Corporation  
Employees' Pension Fund Trust,  
Rep. by its Administrator, Thiruvalluvar House,  
Pallavan Salai, Chennai.

... Respondents

(R5 impleaded vide order dated 16.06.2021 in W.M.P. No.  
15278/2020)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records relating to the order dated 25.09.2017 passed in C.P.No.100 of 2014 on the file of the second respondent and quash the same as illegal, arbitrary and unconstitutional.

For Petitioner : Mr.A.Sundaravadanam

For Respondents: Mr.K.V.Shanmuganathan (R1 to R3)  
Mr.C.S.K.Sathish (R5)

O R D E R

The petitioner has come forward with this Writ Petition challenging the order dated 25.09.2017 passed in C.P.No.100 of 2014 on the file of the second respondent and quash the same as illegal, arbitrary and unconstitutional.

2. The facts in nutshell placed before this Court are as follows:

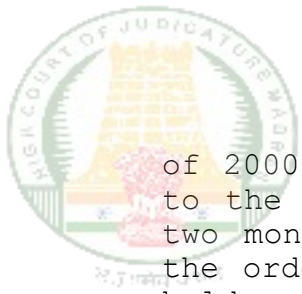


(a) The husband of the first respondent and the father of the second and third Respondents i.e. Kesavan (Employee) joined as Conductor in the Petitioner Transport Corporation (hereinafter referred to as 'the Management') on 17.06.1979. Subsequently, the Employee was dismissed from service vide order dated 04.09.1996, on the charge that on 10.02.1996, when the Employee was on duty as Conductor in the bus Route No.0601 from Mysore to Erode, on inspection by the Checking Inspectors, it was found that 76 passengers were in the bus, whereas 74 tickets had been issued to the passengers. It was further found that one of the passengers was found without a ticket and another one was found with an improper ticket.

(b) The Management had conducted a domestic enquiry and sufficient opportunities were given in adherence to the principles of natural justice. But, the Employee had not produced any document to establish that he was not guilty of the offence. The Enquiry Officer, after scrutinizing all relevant documents placed before him, submitted a report dated 12.02.1996, holding that the charges levelled against the employee were held proved. The Management, taking note of the loss caused to it, had accepted the findings of the Enquiry Officer and consequently, dismissed him from service by an order dated 04.09.1996, after payment of a sum of Rs.3,950/- vide Demand Draft No.218994 dated 31.08.1996 towards one month salary to him.

(c) The Management filed an Approval Petition before the Industrial Tribunal in A.P.No.78 of 1996 under Section 33 (2)(b) of the Industrial Disputes Act, 1947 seeking to approve the dismissal order dated 04.09.1996 against the Employee, which was rejected by the Tribunal, by an order dated 07.08.2000. Challenging the said order, the Management filed a Writ Petition before this Court in W.P.No.5188 of 2001.

(d) In the meantime, the Employee filed a Computation Petition in C.P.No.613 of 2000 under Section 33 (c) (2) of I.D.Act before the Labour Court, Salem to compute the money value of salary and other benefits for the period from 01.09.1996 to 30.11.2000 due to him from the petitioner herein at Rs.4,16,860/- along with 8% interest. Subsequently, the Employee died on 08.04.2001, and his legal representatives have been brought on record in the said W.P.No.5188 of 2001 by an order dated 19.02.2003. This Court dismissed the said Writ Petition on 10.09.2008. Thereafter, the legal heirs of the deceased Employee were substituted in the Computation Petition on the file of the Labour Court vide order dated 10.07.2009 made in I.A.No.16 of 2009 in C.P.No.613 of 2000. Further the Labour Court, Salem passed an order dated 31.05.2012 in the C.P.No.613



of 2000, directing the Management to pay a sum of Rs.2,70,845/- to the legal heirs of the deceased Employee within a period of two months, failing which to pay 9% interest. In compliance of the order dated 31.05.2012, it is resolved in the Board Meeting held on 12.09.2012 to implement the order of Labour Court, Salem in C.P.No.613 of 2000 and to pay a sum of Rs.2,70,845/- for the period from 01.09.1996 to 30.11.2000 along with 9% interest towards salary and other benefits to the legal heirs in respect of deceased ex-Employee. In compliance of the above order, a sum of Rs.2,70,845/- was divided into three and a sum of Rs.90,982/- was paid to each one of the legal heirs along with the bonus amount of Rs.23,698/- for the year 2000-2001.

(e) Thereafter, on 08.12.2014, the Respondents 1 to 3 had filed another Computation Petition under Section 33 (c) (2) of the Industrial Disputes Act, seeking to compute the money value due to the legal heirs of the deceased Employee on various heads mentioned in the petition from the Management herein at Rs.14,72,401/- along with 18% interest from 08.04.2001.

(f) The Management filed a counter affidavit dated 23.12.2016 by stating that the legal heirs of the Employee are not entitled for the said benefits. However, the said Computation Petition was allowed by an order dated 25.09.2017, aggrieved by which, the present Writ Petition has been filed.

3. Learned counsel for R1 to R3 / Legalheirs of the Employee contended that the Labour Court, after considering the order of this Court passed in the Writ Petition has allowed the Computation Petition filed by the legalheirs, with a direction to the Management to pay Rs.14,72,401/- to them. The Labour Court also considered the delay aspect and directed the Management to pay the said sum along with interest at the rate of 10% in the light of the judgment of this Court reported in (2009) 3 MLJ I. Since the order of the Labour Court is a well considered one, it does not warrant any interference by this Court.

4. Heard both sides. Perused the records.

5. It is seen that the Labour Court, while granting relief in the Computation Petition, has taken note of the fact that the Employee joined the service in the year 1979 and that he was dismissed from service on 04.09.1996. The Tribunal dismissed the Approval Petition filed by the Management in A.P.No.78 of 1996 and the Writ Petition was also dismissed subsequent thereto. The employee filed C.P.No.613 of 2000, claiming monetary benefits which was computed and directed to be paid together with interest and the same has been paid and the balance amount from 01.04.2000 to 08.04.2001 needs to be paid, which was calculated



by Labour Court. Since the Labour Court has rightly calculated the benefits under various heads, this Court finds that there is no perversity in the order passed by the Labour Court and hence this Court is not inclined to interfere with the same.

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6. However, during pendency of the Writ Petition, a sum of Rs.6,00,000/- (Rupees Six Lakhs Only) has been deposited and the same has been withdrawn and the employee is said to have availed some loan, which needs to be adjusted on the balance amount and the family members cannot enrich themselves and contend that the amount due to the Corporation on the loan availed by the Employee need not be adjusted.

7. Hence, this Court is of the view that the loan amount needs to be adjusted and the balance amount alone has got to be paid. The pension amount of the Employee needs to be shared among the legal heirs, who are already parties to the Writ Petition. The Tamil Nadu State Transport Corporation Employees' Pension Fund Trust is already a party to the Writ Petition. Since the Employee died on 08.04.2001, the 1<sup>st</sup> respondent alone is entitled to the entire amount of Family Pension from that date and the respondents 2 and 3 are not entitled to any single pie on the family pension amount. In this context, it is necessary to extract the relevant provisions of the Tamil Nadu State Transport Corporation Employees Pension Fund Rules, 1998 as under:

"RULE 20- BENEFITS TO THE FAMILY  
Death of a Pensioner

a. In the case of death of a pensioner before he attains the age of 65, the spouse is eligible for family pension at the rate at which the pensioner was getting pension at the time of his death or 50% of the last pay drawn at the time of retirement whichever is less till the period the pensioner would have attained the age of 65 if he is alive; and after that period, the family pension will be at the rate of 30% of the pay last drawn by the member at the time of retirement.

b. In the case of children, the other terms and conditions mentioned in para 20(2)(b)(c) and (d) will be applicable."

8. The pension amount is a property within the meaning of Article 300-A of the Constitution of India and the wife and children are entitled to equal share in the pension amount of the deceased. However, married daughter and son above 25 years of age, except certain categories like physically challenged, etc., will not be eligible for family pension.



9. Though the Labour Court was right in awarding interest, taking note of the pandemic situation and the loss suffered by the Corporation, this Court interferes only with the rate of interest ordered by the Labour Court. In case if the amount is not settled within a period of one month from the date of receipt of a copy of this order, the Management shall pay interest @ 4% from the date of this order. It is true that the Labour Court has got powers to impose costs and rightly imposed the costs. However, this Court is of the view that the said amount shall be paid to the following Orphanage, instead of paying to other side:

Helping Hearts Children Home  
210, Bala |Dandayudham Street,  
KAS Theatre Road, Gandhipuram,  
Erode, Tamil Nadu 638002.

10. Accordingly, this Writ Petition is ordered to the extent indicated above. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-  
Assistant Registrar (CS VI)

True Copy

Sub-Assistant Registrar

arr/ar

To:

1. The Presiding Officer,  
Labour Court  
Salem

2. Helping Hearts Children Home  
210, Bala |Dandayudham Street,  
KAS Theatre Road, Gandhipuram,  
Erode, Tamil Nadu 638002.

+1 CC to Mr.K.V.Shanmuganathan, Advocate sr 32110.

+1 CC to Mr.C.S.K.Sathish, Advocate sr 32046.

W.P.No.9651 of 2018

SMI (CO)  
SP(26/10/2021)