



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.31000 of 2015

and

MP.No.1 of 2015

The Management
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region, Trichy - 1
Rep.by its General Manager ...Petitioner

-vs-

1. V. Kaliyamoorthy
2. The Special Deputy Commissioner of Labour (Conciliation)
DMS Compound
Chennai. ...Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari to call for the records passed by the 2nd respondent in A.P.No.236/10 dated 23.04.2013 and to quash the same.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.V.Ajay Khose for R1

ORDER

Petitioner / Transport Corporation has come up with this Writ Petition challenging the order dated 23.04.2013 passed by the second respondent in Approval Petition No.236 of 2010.

2. It is represented by the learned counsel for the petitioner / Transport Corporation that, the first respondent / employee joined the services of the petitioner / Transport Corporation as a Driver. While the 1st Respondent was on duty on 07.07.2008, he committed a fatal accident and after conducting due enquiry, he was dismissed from service on 13.12.2010.

3. It is seen that, the Labour Court rejected the Approval Petition filed by the petitioner / Transport Corporation on 23.04.2013 on the ground that, there was no witness to the fatal



accident caused by the first respondent.

4. The learned counsel for the petitioner / Transport Corporation contended that, the decision taken by the second respondent / Authority is beyond his scope and it is not in consonance with the guidelines framed by the Apex Court in the decision rendered in the case of Lalla Ram vs. Management of D.C.M. Chemical Works Ltd. reported in AIR 1978 SC 1004. According to the learned counsel, even hearsay evidence is admissible to establish accident cases.

5. Today, when the matter is taken up for hearing, the learned counsel appearing for the first respondent / employee submitted that, the first respondent / employee accepted the proposal given by the Government vide Letter No.5370/C2/2021, dated 24.07.2021 in respect of Clause No.2(i) alone. For better appreciation, the said clause is extracted hereunder:

2. There were 283 cases, except TNSTC (MDU) placed before the Board for discussion. After detailed deliberations, the following decisions were taken:

(i) In respect of Ex-employees having required qualifying service for pension under 1998 Scheme to go on compulsory retirement on the date of dismissal and to allow eligible retirement benefits as per Rules in force.

6. Taking note of the submissions of the learned counsel on either side and as the first respondent / employee has agreed to accept clause 2(i) of the proposal made by the Government, the first respondent / employee is permitted to go on compulsory retirement on the date of dismissal and he is entitled to eligible retirement benefits, such as Gratuity, Pension and Provident Fund, as per the Rules in force.

7. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

dpq



To

The Special Deputy Commissioner of Labour
(Conciliation)

DMS Compound
Chennai.

+1cc to Mr.Venkatachalam, Advocate, S.R.No.37119

+1cc to Mr.Ajoy Khose, Advocate, S.R.No.37145

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MG (CO)
RGA (04/10/2021)