

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2021

CORAM :
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2695 of 2014

M.Ramalingam

... Petitioner

Vs.

1. The Presiding Officer,
III Additional Labour Court,
Chennai.
2. The Management of Metropolitan Transport
Corporation, Pallavan House,
Pallavan Salai,
Chennai 600 002.
3. The State of Tamilnadu,
rep. by its Secretary,
Transport Department,
Fort St. George,
Chennai 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus to call for the records in C.P.No.128 of 2009, dated 28.10.2013, Award passed by the III Additional Labour Court and quash the same, consequently direct the 2nd Respondent to pay a sum of Rs.1,06,240/- to the Petitioner as per the Annexure in the Claim Petition along with accrued interest from the day on which it fell due and till the date of making payment.

For Petitioner : Ms.Vaishali
for M/s.T.Fennwalter Associates

For 2nd Respondent : Mr.M.Chidambaram

For 3rd Respondent : Mr.L.S.M.Hasan Fizal,
Government Advocate

ORDER

Petitioner has come up with this Writ Petition challenging the order dated 28.10.2013 passed by the 1st Respondent herein in C.P.No.128 of 2009, rejecting the Computation Petition filed by him, claiming a sum of Rs.1,06,240/- together with accrued interest.

2. According to the Petitioner, he joined the services of the 2nd Respondent/Transport Corporation as a Cleaner in 1964. In the year 1975, the 2nd Respondent/Transport Corporation was bifurcated and the Petitioner was absorbed by Pallavan Transport Corporation. It is the case of the Petitioner that, P.F. contributions deducted under the then Transport Corporation, were paid to him without accumulation of interest for the past 27 years of service and that, pursuant to bifurcation, a sum of Rs.5,457/- has been transferred to the Corporation PF Account. He further stated that, he

retired on 31.05.2002 and that, terminal benefits were settled to him in the same year, however, without accrued interest. According to the Petitioner/employee, a sum of Rs.86,117.81 is outstanding and he is entitled to a total sum of Rs.1,06,240/-, as claimed supra.

3. Before the Labour Court, the Respondent/Transport Corporation submitted that, the entire amount due to the Petitioner has been settled to him, immediately after his retirement and that, no amount need to be paid to him. That apart, after the formation of the Provident Fund Trust, entire amount has been remitted to the Trust, however, the Trust has not been made a party.

4. The Labour Court, while deciding the issue, held that, though the Petitioner/employee retired from the services of the Respondent/Transport Corporation in the year 2002, he has filed the Computation Petition in the year 2009, after a lapse of seven years and that, it is only an after-thought. Further, the employee has not assigned any reason for the long delay in filing the Computation Petition. The Labour Court further observed that, the quantum of amount has also not been decided in the appropriate Industrial Dispute and that, the employee has not claimed any amount based on the

Award or Settlement. However, the Labour Court has not rejected the claim only on the ground of laches, but, also on the ground of non-joiner of necessary party, as the Provident Fund Trust has not been made a party to the proceedings. Undoubtedly, without impleading the Provident Fund Trust, the Court cannot come to the conclusion as to whether the employer has paid the Provident Fund dues or not.

5. It is the case of the Petitioner/employee that, he has made a representation to the Provident Fund Trust, but, a copy of the representation has not been filed. However, he has marked the Acknowledgment Card and the Certificate of Postings vide Exs.P1 to P3, before the Labour Court.

6. In all Provident Fund issues, the Provident Fund Trust is responsible to pay the P.F. amount due to the employee and that, when the entire amount has been settled by the employer including the Provident Fund, the statement of the Management witness alone cannot be a ground to grant the relief sought by the employee. Hence, the Petitioner's claim was rejected and the Computation Petition stood dismissed.

7. In the case on hand, the Petitioner/employee has filed the Computation Petition in the year 2009 and there is a categorical stand taken

by the Respondent/Transport Corporation that, Provident Fund Trust is a necessary party. Till the order is passed in the Computation Petition in October 2013, the Trust has been not made as a party.

8. In view of the foregoing, **this Court does not find any perversity in the order dated 28.10.2013 passed by the Labour Court in C.P.No.128 of 2009**, as it is mandatory on the part of the Petitioner/employee to have made the Provident Fund Trust a party to the proceedings, as the Transport Department is not answerable to the Provident Fund dues claimed by the employee.

In fine, the Writ Petition stands dismissed. No costs.

31.07.2021

Index : Yes/No
Speaking Order : Yes/No

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S.VAIDYANATHAN,J.

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