

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.3244 of 2017
and WMP.No.3190 of 2017

The Management
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Thiruvananthapuram Region, Thiruvannamalai
Rep. By its General Manager ... Petitioner

..Vs..

1. P. Arunachalam (deceased)
2. The Special Deputy Commissioner
of Labour, DMS Compound
Chennai.
3. A. Suguna
4. A. Senthil raj ... Respondents

R3 & R4 substituted as legal heirs of deceased R1 vide order dated 07.04.2021 made in WMP.No.9072 of 2021 in W.P.No.3244 of 2017 by SVNJ

Prayer:- This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order dated 04.07.2016 passed by the second respondent in Approval Petition No.296 of 2013 and quash the same consequently direct the second respondent to approve the order of the petitioner dated 07.10.2013 dismissing the 1st respondent from service.

For Petitioner : Mr.K.J.Sivakumar

For Respondents: Mr.S.T.Varadarajulu for R3 & R4

ORDER

This writ petition has been filed, seeking a direction to call for the records pertaining to the order dated 04.07.2016 passed by the second respondent in Approval Petition No.296 of 2013 and quash the same consequently direct the second respondent to approve the order of the petitioner dated 07.10.2013 dismissing the 1st respondent from service.

2. The Management has questioned the rejection order dated 04.07.2016 passed by the second respondent in the Approval Petition No.296 of 2013 with the consequential prayer to approve the dismissal order dated 07.10.2013.

3. It is seen that the Authority, before whom the matter was argued, considered all the aspects in detail and came to the conclusion in the light of Lalla Ram' case reported in AIR 1978 SC 1004, that the petitioner has not been paid the entire one month wages and that there was a shortfall. During the pendency of the writ petition, the workman died and the legal heirs were brought on record. Wife and son are the legal heirs and son, on behalf of his mother has also filed an affidavit that the family is in distress condition and that they are willing to give up the entire back wages and it would suffice that the terminal benefits including the pension is extended. In the affidavit, he has also stated that the contribution to the Pension Trust has to be made by the employer.

4. On a careful scrutiny of the entire facts, I do not find any prima facie case in favour of the Petitioner / Management, as, admittedly, there was a shortfall of one month wage, as rightly held by the Authority concerned. However, one of the legal heirs has filed an affidavit dated 20.04.2021, giving up the back wages, with a request to release the terminal benefits and remit the employer and employee contribution to the Pension Fund Trust. Hence, while rejecting the claim of the Management in this writ petition and by taking note of the affidavit dated 20.04.2021, the Writ Petition is disposed of with the following direction:

i) The Petitioner / Management shall extend all the terminal benefits like pension, gratuity etc., to the legal heirs of the deceased employee and shall also contribute the employer and employee share to the Provident Fund from the date of dismissal till the date of superannuation, namely, November 2016, within a period of four months from the date of receipt of a copy of the order, failing which the benefits will fetch interest at the rate of 6% per annum and the interest portion will have to be recovered from the officials' personal funds for not complying with the orders of this Court. If any request is made for compassionate appointment, the same may also be considered if there are no legal impediments. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

To

The Special Deputy Commissioner
of Labour, DMS Compound
Chennai.

+1cc to Mr.K.J.Sivakumar, Advocate SR.No.26915

+1cc to Mr.S.T.Varadarajulu, Advocate SR.No.26631

W.P.No.3244 of 2017
and WMP.No.3190 of 2017

PMK (CO)
GMY (13/07/2021)



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