



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2021

C O R A M

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THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P. (MD) No. 8410 of 2012

and

M.P (MD) No. 1 of 2012

The Management,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Bye Pass Road,
Madurai. ... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.S.Sekar (Conductor) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, calling for the records in C.P.No.7 of 2009 dated 28.09.2011 on the file of the First Respondent and quash the same.

For Petitioner : Mr. J.Senthil Kumariah
For R2 : Mr. A.Rahul

ORDER

Heard Mr. J.Senthil Kumariah, Learned Counsel appearing for the Petitioner and Mr. A.Rahul, Learned Counsel appearing for the Second Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. The Second Respondent, who was working as conductor in the Transport Corporation of the Petitioner had been dismissed from service on the charge of absenting himself from duty by order dated 25.03.1998. The Labour Court, Madurai, by award dated 05.06.2008 in I.D. No.92 of 1999 filed by the Second Respondent, set aside the said order of dismissal and directed his reinstatement into service, while denying him backwages. The Petitioner challenged that award of the Labour Court in W.P. (MD) No.12916 of 2011 before this Court, which was dismissed by order dated 06.02.2013 confirming the order which had been impugned therein. In the meanwhile, the Second Respondent had filed claim petitions in C.P. No. 7 of 2009 and C.P.



No. 13 of 2010 under Section 33-C(2) of the Industrial Disputes Act, before the Labour Court for determining the wages due to him for the period from 05.06.2008 to 31.06.2008 and from 01.12.2008 to 28.02.2010 respectively, which was granted by common order dated 28.09.2011 and is assailed in this Writ Petition.

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3. The only contention raised by the Petitioner in this Writ Petition is that the computation of the monetary benefits under Section 33-C(2) of the Industrial Disputes Act, 1947, ought not to have been made when the Writ Petition challenging the award passed in I.D. No. 92 of 1999 was pending before this Court. In this context, it must be noticed here from the materials on record that the Petitioner had not taken prompt steps to immediately challenge the award dated 05.06.2008 in I.D. No. 92 of 1989 and the Writ Petition in W.P. (MD) No. 12916 of 2011 had been filed on 01.11.2011, which is evidently after the Labour Court has passed the impugned order. That apart, the said Writ Petition in W.P. (MD) No. 12916 of 2011 has also been dismissed by order dated 06.02.2013 and there is no impediment for the Petitioner to avail the benefits arising out of the award passed by the Labour Court. Moreover, the Petitioner has not shown any infirmity in the impugned order warranting interference by this Court in the exercise of the discretionary powers of judicial review under Article 226 of the Constitution of India. The Petitioner shall remit the entire amount due under the impugned order before the Labour Court and file report of compliance in that regard before the Registrar (Judicial) of this Court by 31.08.2021. In the event of such failure, the Second Respondent is not precluded from working out his remedies for execution in accordance with law.

In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Presiding Officer,
Labour Court,
Madurai.



Copy to
The Registrar (Judicial),
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.Y.ARULANANDASAMY, Advocate (SR-19691[F] dated
21/06/2021)

+1 CC to M/s.J.SENTHILKUMARAIAH, Advocate (SR-19802[F] dated
22/06/2021)

W.P. (MD) No.8410 of 2012
and
M.P (MD) No.1 of 2012
18.06.2021

sss (CO)
TR(03.08.2021) 3P 5C