



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.23584 of 2015
and
M.P.Nos.1 & 2 of 2015
(Through Video Conference)

The Management,
Represented by its General Manager,
Tamil Nadu Transport Corporation,
Vi.Ko., Vellore District.

..Petitioner

-Vs-

1. A.Arumugam
2. The Presiding Officer,
Principal Additional Labour Court,
Vellore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the order passed by the second respondent in C.P.No.301/2014 dated 01.06.2015 and quash the same.

For Petitioner : Mr.G.Saravana Kumar

For R-1 : Mr.K.M.Ramesh
* R2- Labour Court

O R D E R

The first respondent herein, had superannuated from service on 31.01.2014. In his claim petition filed before the Principal Labour Court, Vellore under Section 33-C(2) of the Industrial Disputes Act, 1947, he had claimed that he was entitled for eight months of Earned Leave (E.L.) from the date of his entry into service till the date of his superannuation. The Labour Court, Vellore had accepted the claim made by the first respondent and an Award amount of Rs.2,14,240/- (Rupees Two Lakhs Fourteen Thousand Two Hundred and Forty only) towards the



E.L. salary, for a period of eight months, was directed to be paid by the petitioner Management.

2. Mr.G.Saravana Kumar, learned standing counsel appearing for the Petitioner Transport Corporation submitted that the first respondent herein, was earlier dismissed from service, which came to be challenged by him in I.A.No.350 of 1995 before the Principal Labour Court, Vellore and the dispute was settled before the Lok Adalat on 13.09.2012. According to the learned standing counsel, prior to the settlement, the first respondent herein was 're-engaged into service' by the appellant and therefore from 21.01.2013, by calculating the first respondent's eligible E.L. between 21.01.2013 to 31.01.2014, he would be entitled to surrender six days of E.L. which amounts to Rs.5,096/- alone.

3.Per contra, Mr.K.M.Ramesh, learned counsel appearing for the first respondent would submit that the Lok Adalat Award, dated 13.09.2012 has got no connection with the present claim made by the first respondent in the claim petition. Since the first respondent is entitled for surrendering the E.L. accrued from the date of his entry into service till his date of superannuation, the Principal Labour Court, Vellore has correctly adopted the eight months of such leave and arrived at the aforesaid amount.

4. The Award of the Lok Adalat pertains to a dispute arising out of the punishment of dismissal of the first respondent. When the punishment was challenged, the Labour Court had ordered for reinstatement in service with backwages and all attendant benefits. In this background, the petitioner Corporation had reinstated the first respondent back into service. Mere reference to the term 're-engaged in service' in the writ petition, will not amount to a fresh appointment for the simple reason that, the first respondent herein already had the benefit of the Award for reinstating him back into service and the only option available to the petitioner Management, at that relevant point of time was, to reinstate the first respondent with continuity of services and all other attendant benefits.

5. Insofar as the backwages are concerned, the amount was amicably settled between the petitioner Management and the first respondent and the same was also settled before the Lok Adalat. As such, the submissions of the learned counsel for the first respondent that the Lok Adalat Award has no nexus with the claim petition, is correct. If that be so, the first respondent would be entitled to surrender the E.L. for the period calculated from his date of entry into service, till the date of superannuation, which is eight months.



6. The learned counsel for the petitioner Management also admits that if the date of entry into service is taken into account, the first respondent herein, would be entitled to surrender eight months of E.L. While that being so, I do not find any infirmity in the findings rendered by the Principal Labour Court, Vellore in the impugned order made in C.P.No.301/2014 dated 01.06.2015. Accordingly, the Writ Petition stands Dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

7. At this juncture, it is stated that the petitioner Management had deposited the entire amount ordered by the Principal Labour Court, Vellore vide its impugned Award dated 01.06.2015 and as per the orders of this Court, the first respondent herein had already withdrawn 50% of the amount deposited by the petitioner Management.

8. Accordingly, the first respondent herein is at liberty to withdraw the remaining amount lying in the deposit on the file of C.P.No.301 of 2014 before the Principal Labour Court, Vellore by making out an appropriate application and the Labour Court shall endeavour to dispose of the application at the earliest, preferably within a period of one(01) week from the date of receipt of a copy of such application.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To:

The Presiding Officer,
Principal Additional Labour Court,
Vellore.

+1cc to Mr.G.Saravanakumar, Petitioner Advocate, S.R.No.371

+1cc to Mr.K.M.Ramesh, 1st Respondent Advocate, S.R.No.601

W.P.No.23584 of 2015

NR(CO)
RGA(25/01/2022)