



WEB COPY



W.P.No.42495 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.42495 of 2016

and

W.M.P.Nos.36390 of 2016 & 26055 of 2019

The Management of Metropolitan
Transport Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai, Chennai-600002.

... Petitioner

Vs.

1.The Special Deputy Commissioner of Labour
(Under Sec.33 (2) (B) of the
Industrial Disputes Act, 1947), Chennai.

2.Mr.P.Ravichanran

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the order passed by the first respondent in Approval Petition in A.P.No.16 of 2011 dated 27.06.2014 and quash the same as illegal.

For Petitioner : Mr.R.Ramanlal, AAG, Assisted by
Mr.C.Gauthamaraj

For Respondents : Mr.P.Kumaresan, AAG, Assisted by
Mr.S.John J.Raja Singh, AGP [R.1]
: Mr.S.J.Varadarajulu [R.2]



W.P.No.42495 of 2016

ORDER

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The order dated 27.06.2014, passed in A.P.No.16 of 2011 is under challenge in the present writ petition.

2. The petitioner was a driver in the petitioner Transport Corporation and based on the charge relating to misappropriation of the funds of the Transport Corporation, disciplinary proceedings were initiated against him. Charge memo was issued, domestic inquiry was conducted and based on the findings of the inquiry officer, the punishment of dismissal from service was issued.

3.The petitioner Management filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act. The first respondent adjudicated the issues with reference to the principles laid down by the Hon'ble Supreme Court in the case of *Lala Ram*.

4. The learned Additional Advocate General mainly contended that it is a case of misappropriation of funds. All the issues were decided in favour of the management including the issues relating to compliance of



W.P.No.42495 of 2016

the Rules of Natural Justice, prima facie case against the workman and also the filing of an Approval Petition within the time limit. However, regarding the one-month salary, the authority formed an opinion that the dearness allowance as applicable was not paid to the workman.

5. The learned counsel appearing on behalf of the second respondent workman made a submission that the dearness allowance as per the Government Order has not been settled which is mandatory and therefore, the writ petition is to be rejected.

6. The learned Additional Advocate General contended that the applicability of the Government Order and the eligibility of the petitioner for such dearness allowance is to be determined with reference to the documents made available. However, such an exercise was not done by the competent authority and therefore, the finding in this regard is perverse. Hence, the authorities are bound to verify the correctness of the salary or otherwise and thereafter form an opinion.

7. In view of the facts and circumstances, the order dated 27.06.2014 passed in A.P.No.16 of 2011 is quashed and the matter is



W.P.No.42495 of 2016

remanded back for fresh consideration. The first respondent is directed to call for the entire records from the writ petitioner Management, examine the same, adjudicate the issues by affording opportunity to all the parties, and thereafter pass speaking orders on merits and in accordance with law as expeditiously as possible.

8. With these directions, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

11.11.2022
(2/2)

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Internet : Yes

Index : Yes

Speaking order

To

- 1.The Management of Metropolitan Transport Corporation (Chennai) Ltd.
Pallavan Illam, Anna Salai, Chennai 2.
- 2.The Special Deputy Commissioner of Labour Authority Under Sec.33 (2) (b) of the Industrial Disputes Act, 1947, Chennai.



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W.P.No.42495 of 2016

S.M.SUBRAMANIAM, J.

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(2/2)