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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM

The Hon'ble Mr. Justice T.RAJA
and
The Hon'ble Mr. Justice SATHI KUMAR SUKUMARA KURUP

W.A.No.2697 of 2019
and
C.M.P.No.17387 of 2019

The Management of Metropolitan
Transport Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai - 600 002. .. Appellant/ Petitioner

Vs

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

2.G.Dennis Nelson ..Respondents/
Respondents

Prayer: Appeal preferred under Clause 15 of Letters Patent
against the order dated 23.06.2017 made in W.P.No.28117 of
2015.

Prayer in W.P.No.28117 of 2015:

Writ Petition filed Under Article 226 of the
Constitution of India, to issue a Writ of Certiorari
Mandamus to call for the records of the order passed by the
1st Respondent in Approval Petition in AP.NO.563/2011
dated:25.07.2013 and to quash the same as illegal.

For Appellant : Mr.Mano Bharathi
Standing Counsel

For Respondent 1 : Mr.S.T.Varatharajulu



JUDGMENT

(Made by SATHI KUMAR SUKUMARA KURUP, J.)

The Appellant filed W.P.No.28117 of 2015 against the order of the Special Deputy Commissioner of Labour, D.M.S., Compound, Chennai - 600 002, rejecting the petition to approve the order of dismissal of Thiru.Dennis Nelson, Conductor in Metropolitan Transport Corporation and the same was dismissed by the learned Single Judge. Aggrieved by the dismissal of the Writ Petition, the Management of Metropolitan Transport Corporation (Chennai) Ltd., Chennai, has preferred this Writ Appeal.

2.The learned Counsel appearing for the Appellant submitted that the Second Respondent is a habitual absentee and hence, he is not entitled to back-wages, continuity of service and other attendant benefits and granting them in an automatic fashion is against the principle evolved under "No work, No pay". The continuity of service is irrational and deserves to be modified. He further submitted that there was no procedural lapses on the side of the Appellant as the Second Respondent was dismissed from service after conducting proper enquiry.

3.It is the contention of the Second Respondent that the Management of Metropolitan Transport Corporation (Chennai) Ltd., dismissed him without conducting enquiry. Since the Second Respondent was dismissed without conducting enquiry, the learned Single Judge had not considered the contentions raised in the Writ Petition and therefore, the Writ Petition was dismissed.

4.The Deputy Commissioner of Labour had conducted enquiry and based on the enquiry only, the Special Deputy Commissioner of Labour had refused to grant approval for the order of dismissal passed against the Second Respondent in the Writ Appeal viz., G.Dennis Nelson, who was working as Conductor in the Metropolitan Transport Corporation (Chennai) Ltd., Chennai.

5.The contention of the Appellant that the Second Respondent is not entitled to back-wages and continuity of service and other attendant benefits and granting them in an automatic fashion is against the principle evolved under "No work, No pay", cannot at all be accepted. The contention that the continuity of service is irrational and deserves to be modified, also cannot at all be accepted in the light of the findings of the Deputy Commissioner of Labour who had conducted enquiry and therefore, he had come to the conclusion that the Management had not conducted



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proper enquiry regarding the disciplinary proceedings against the Second Respondent/Workman. In the writ appeal, the contention of the Appellant Management cannot at all be considered fair as the Second Respondent is alleged to have attained the age of superannuation and the claim that the Second Respondent had 15 previous departmental enquiries and therefore, the order of dismissal is justified, cannot at all be considered by this Court. Therefore, the order of the learned Single Judge is found reasonable considering the principle of fairness and equity governing the Writ Court. We find no merit in the Writ Appeal.

6. In the light of the above discussion, this Writ Appeal is dismissed. The Appellant is directed to settle the entire dues payable to the Second Respondent/Workman within a period of four weeks from the date of receipt of a copy of this order. Failing which, the Second Respondent/Workman is entitled to move contempt petition before this Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

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

+1 cc to Mr.K.Moorthy, Advocate Sr.NO.16381

+1 cc to Mr.S.T.Varadarajulu, Advocate Sr.NO. 16001

W.A.No.2697 of 2019

GPL(CO)

A.SK(29/04/2022)