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W.P.Nos.1045 to 1047 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE **M. DHANDAPANI**

W.P.Nos.1045 to 1047 of 2016

in

W.M.P.Nos.804 to 806 of 2016 & 23643, 23662 of 2021
& 32875, 32377 of 2022

The Management,
Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai,
Chennai-2.

... Petitioner in all the petitions

Vs.

1. M,Ramachandran

2. The Presiding Officer,
II Additional Labour Court,
Chennai.

... Respondents in W.P.No.1045 of 2016

1. The Presiding Officer,
II Additional Labour Court,
Chennai.

2. Paravathy

3. Nithya

4. Ponnulakshmi

... Respondents in W.P.No.1046 of 2016

1. V.Mohanarangam



W.P.Nos.1045 to 1047 of 2016

2. The Presiding Officer,
II Additional Labour Court,
Chennai.

... Respondents in W.P.No.1047 of 2016

Prayer in W.P.No.1045 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the order passed by the second respondent in C.P.No.1922/2011 dated 06.02.2015 and quash the same.

Prayer in W.P.No.1046 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the order passed by the second respondent in C.P.No.434/2005 dated 07.04.2015 and quash the same.

Prayer in W.P.No.1047 of 2016: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the order passed by the second respondent in C.P.No.1888/2011 dated 29.04.2015 and quash the same.

For Petitioners : Mr.M.Chidambaram For all the writ petitions

For Respondents : Mr.V.Ajoy Khose, R1

For WP.No.1045 and 1046 of 2016 &

For R2 to R4 in W.P.no.1047 of 2016



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COMMON ORDER

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Since the issue involved in the present writ petitions are one and the same are disposed of by way of this common order.

2. W.P.No.1045 of 2016 has been filed seeking to quash the order passed by the second respondent in C.P.No.1922/2011 dated 06.02.2015.

3. W.P.No.1046 of 2016 has been filed seeking to quash the order passed by the second respondent in C.P.No.434/2005 dated 07.04.2015.

4. W.P.No.1047 of 2016 has been filed seeking to quash the order passed by the second respondent in C.P.No.1888/2011, dated 29.04.2015.

5. The petitioner is the Management and the private respondents are workmen. The petitioner have come forward to challenge the order passed by the Labour Court in various computation petitions filed by the contesting respondents dated 06.02.2015, 07.04.2015 and 29.04.2015. The Labour Court in entertaining the claim made by the contesting respondents filed under Section 33-C(2) of the Industrial Disputes Act, 1947 (for short I.D.Act) computed various amounts due to the contesting respondents.



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6. It is seen from the records that the contesting respondents filed separate claim petitions under Section 33-C(2) of the I.D.Act claiming arrears of salary, bonus, ex-gratia payment, etc. And the same was allowed in favour of the respondents/workmen. Challenging the said computation petition, the petitioner Management has filed these writ petitions.

7. The learned counsel for the petitioner submitted that the private respondents/workmen in W.P.No.1045 and 1046 of 2016 are unauthorised absentees for long period and therefore, they have removed from service. Pursuant to the order passed by the Labour Court, they were granted reinstatement of service and the entire wages are calculated by the petitioner Management and paid to them. The Labour Court, without making proper calculation, allowed the computation petitions, which has to be necessarily interefered with. It is further submitted that insofar as the petitioner in W.P.no.1047/2016, the period during which the workmen was out of employment, he is not entitled for wages during the said period.

8. The learned counsel further submitted that the private respondent in



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W.P.No.1047 of 2016 was discharged from duty on medical ground on 01.09.2009 and he was given alternative employment on 20.11.2011 pursuant to the order passed by this Court in W.P.no.3675/2010. When the first respondent was absent from 01.09.2009, he is not entitled for getting backwages. Hence, the order passed by the first respondent is liable to be set aside.

9. The learned counsel for the private respondents submitted that the computation petitions have been filed based on the order passed by the Labour Court and this Court. The First respondent has also rightly analysed the issued and passed orders, which need not be any interference.

10. Heard the learned counsel on either side and perused the materials available on record.

11. The private respondents in W.P.Nos.1045 to 1047 of 2016 are workmen under the petitioner Management and they raised an Industrial Dispute against the petitioner Management before the Labour Court for reinstatement and the Labour Court has passed award in their favour.



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Challenging the said award, the Management had filed writ petition before this Court and the same was dismissed. The said fact is admitted by either side. After dismissal, the workmen were reinstated.

12. The present computation petitions have come to be filed after reinstatement of the workmen with regard to wages for the period during which they were out of employment. The Labour Court after analysing all the materials available before it had computed the amount payable to the workman. Though the aforesaid order is assailed in respect of all the workmen, however, it is the contention of the learned counsel for the petitioner that insofar as the workman in W.P. No.1047/16 is concerned, he was dismissed and upon filing of a writ, the said workman was provided with alternative employment and, therefore, during the period the workman was without employment, no amount need to be paid towards wages.

13. Though such an argument looks attractive, it is to be pointed out that this Court, in the earlier writ petition in W.P. No.3675/2010 had set aside the discharge from service of the said workman and ordered alternative employment, which effectively means that the discharge was held to be



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improper and the workman was entitled for alternative employment. Such being the case, necessarily the workman is entitled to wages even during the period he was out of employment before he was granted alternative employment. Therefore, the aforesaid argument of the learned counsel deserves to be negated.

14. Insofar as the computation of amounts with regard to the other workmen are concerned, the Labour Court has rightly worked out the compensation payable to each of the workmen which does not suffer the vice of any illegality and, therefore, the said computations does not require any interference at the hands of this Court.

15. Accordingly, all the writ petition stands dismissed. However, there will no order as to costs. Consequently, connected miscellaneous petitions are closed. This Court directs the petitioner Management to implement the order passed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

07.07.2023

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M.DHANDAPANI, J.

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Index : Yes / No
Speaking order / Non speaking order
Netrual Citation Case : Yes / No

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To

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Metropolitan Transport Corporation Ltd.,
Pallavan House,
Pallavan Salai, Chennai-2.

2. The Presiding Officer,
II Additional Labour Court,
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