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W.P.Nos.10916 of 2016 &
22815 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.Nos.10916 of 2016 & 22815 of 2018

and

W.M.P.Nos.9507 of 2016 & 26664 of 2018

W.P.No.10916 of 2016

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

...Petitioner

-Vs-

1.The Special Deputy Commissioner of Labour,
D.M.S. Compound, Chennai.

2.N.Vijayakumari

...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 1st respondent in Approval Petition in A.P.No.460 of 2011 dated 18.04.2013
and to quash the same as illegal.



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For Petitioner : Mr.R.Balaji

For R1 : Mr.M.Shahjahan,
Special Government Pleader

For R2 : Mr.S.T.Varadarajulu

W.P.No.22815 of 2018

The Managing Director,
Management of Metropolitan
Transport Corporation (Chennai) Ltd.,
Anna Salai, Chennai - 600 002.

...Petitioner

-Vs-

1.N.Vijayakumari

2.N.Dinesh Kumar

3.N.Revathi

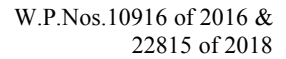
4.Anjali Ammal

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India,
praying to issue a Writ of Certiorari, calling for the records pertaining to the order
passed in C.P.No.177 of 2014 dated 29.11.2017 on the file of the III Additional
Labour Court, Chennai and quash the same.

For Petitioner : Mr.M.Chidambaram

For Respondents : Mr.S.T.Varadarajulu



Since the issue involved in both the writ petitions is one and the same, with the consent of both the parties, the following common order is passed.

2. One S.Narayanasamy, who was an ex Driver of the Metropolitan Transport Corporation, was terminated from service on 17.09.2011 on charges of unauthorized absence. The approval petition filed by the Corporation in A.P.No.460 of 2011 under Section 33(2)(b) of the Industrial Disputes Act was rejected on 18.04.2013. Challenging the same, the Corporation has filed W.P.No.10916 of 2016. Pending the approval petition, the workman died on 19.04.2012 and he was substituted by his legal heirs.

3. In view of the rejection of the approval petition, the first respondent had filed an application under Section 33(C)(2) of the Industrial Disputes Act, whereby the authority had computed the monetary benefits in C.P.No.177 of 2014, which is challenged in W.P.No.22815 of 2018.



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4. The Transport Department of the Government of Tamil Nadu, in its letter No.5370/C2/2021, dated 24.07.2021, had issued instructions to the effect that as per the decision of the Board, the death-cum-retirement benefits of an employee, who expired during litigation, would be disbursed to the legal heirs, by treating the non-employment period as 'No Work No Pay' and also that the legal heirs will not be entitled for claiming appointment on compassionate grounds.

5. In view of the decision taken by the Board, as reflected in the letter of the Transport Department dated 24.07.2021, the legal heirs of the deceased employee would be entitled for the death-cum-retirement benefits.

6. At this juncture, the learned counsel for the respondents submitted that the legal heirs of the deceased employee are willing to forego the arrears of salary for the non-employment period and that they will also not claim compassionate appointment.

7. In view of the said submission, no interference is required to the impugned order passed in C.P.No.177 of 2014, dated 29.11.2017, since the



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respondents/legal heirs of the late employee have foregone their entitlement under the order passed by the Labour Court in the Computation Petition. However, they would be entitled for the death-cum-retirement benefits, in accordance with the letter dated 24.07.2021 issued by the Transport Department, Government of Tamil Nadu.

8. For all the foregoing reasons, there shall be a direction to the Metropolitan Transport Corporation to forthwith disburse the entire death-cum-retirement benefits, including the family pension benefits to the respondents/legal heirs of late S.Narayanasamy, within a period of four (4) weeks from the date of receipt of a copy of this order.

9. In the result, W.P.No.10916 of 2016 stands dismissed and W.P.No.22815 of 2018 stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

31.01.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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M.S.RAMESH.J.

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To

- 1.The Special Deputy Commissioner of Labour,
D.M.S. Compound, Chennai.
- 2.The Managing Director,
Management of Metropolitan
Transport Corporation (Chennai) Ltd.,
Anna Salai, Chennai - 600 002.

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