



W.P.No.11952 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2023

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.11952 of 2009
and M.P.Nos.1 of 2009 and 1 of 2010

The Management of
Metropolitan Transport Corporation,
Pallavan Salai,
Chennai – 600 002.
(Formerly known the Management,
Dr.Ambedkar Transport Corporation,
No.4, Anderson Road,
Ayanavaram, Chennai – 600 023) ... Petitioner

vs.

1.The Presiding Officer,
II Additional Labour Court,
Chennai – 600 104.

Periya Thambi (Deceased)
2.Tmt.Rajeswari

3.Bhavani

4.Krishnamoorthy

5.Elangovan ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records dated 09.01.2006 in I.D.No.611/1996 on the file of the II-Additional Labour Court, Chennai and



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quash the same.

For Petitioner : Mr.R.Balaji, Senior Counsel for
petitioner counsel

For R1 : Court

For R2 to R5 : Mr.S.Ravi

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ORDER

This Writ Petition is filed to call for the records dated 09.01.2006 in I.D.No.611/1996 on the file of the II-Additional Labour Court, Chennai and quash the same.

2.The Transport Corporation has filed the writ petition challenging the order of the Labour Court in I.D.No.611 of 1996 dated 09.01.2006, directing the Transport Corporation to pay backwages and other attendant benefits from 15.11.1994 to the date of the death of the workman on 20.11.2002 to the respondent Nos.2 to 5 in the writ petition.

3.The petitioner will be referred to as the Corporation and the deceased respondent as the workman.



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4.The workman died during the pendency of the dispute before the Labour court and the legal heirs who were impleaded therein contested the claim petition. The deceased workman was employed as a driver in the Transport Corporation. As he was involved in a fatal accident that occurred on 17.12.1992 he was placed under suspension from 23.12.1992 to 26.02.1993. The Corporation issued a charge memo on 25.01.1993, framing three charges. The workman submitted his explanation on 06.02.1993 to the charge memo, which was not accepted by the Corporation. Hence, a domestic enquiry was conducted. The Enquiry Officer submitted his report after due and proper enquiry and found that the charges were proved. On the basis of the enquiry report a second show cause notice was issued to the deceased workman calling for his explanation. As the said explanation was found to be unsatisfactory by the Corporation, it imposed the punishment of dismissal from service. Challenging the dismissal order dated 15.11.1994, the workman raised a dispute before the Labour Court.

5.The Corporation contested the I.D. before the Labour Court contending that the Enquiry Officer conducted the enquiry in a fair and proper manner and arrived at a fair conclusion that the charges levelled



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against the workman were proved. A second show cause notice was issued by the Corporation and the workman gave his explanation. As the explanation was found unsatisfactory the Corporation passed the dismissal order. The Corporation further contended that the deceased workman was responsible for the accident and it was the negligence of the workman that resulted in the death of a pedestrian. Hence after due and proper enquiry, the workman was dismissed from service.

6.Before the Labour Court, the workman examined himself as WW1 and on the side of the Corporation two witnesses were examined as MW1 and MW2. On the side of the Workman Ex.W1 to Ex.W9 were marked and Ex.M1 to Ex.M13 were marked on the side of the Corporation. The Labour Court on an appreciation of the entire evidence on record found that the Corporation failed to prove the charges and also found that the Corporation without referring to the past record of the workman had imposed the highest punishment of dismissal from service. The Labour Court therefore, set aside the dismissal order and directed the Corporation to pay backwages and other attendant benefits from 15.11.1994 till the date of the death of the workman on 20.11.2002 to the respondents 2 to 5.



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7. At the time of the arguments, the learned counsel appearing for the legal heirs of the deceased workman submitted that the widow of the deceased gave a representation to the Corporation on 23.05.2023 agreeing to forfeit 50% backwages awarded by the Labour Court and further requested to settle the other attendant benefits, apart from arrears of pension and pension.

8. The learned counsel for the Corporation submitted that the said representation is placed before the Board of the Transport Corporation and the request of the deceased workman's wife would be considered. As far as the pensionary benefits are concerned, the learned counsel submitted that the Corporation would pay the pension and the arrears of pension to the legal heirs of the deceased workman, if the workman is found to have put in the eligible pensionary service.

9. In the light of the submissions of the learned counsels, the award of the Labour Court is modified with respect to the backwages only. In other respects the award of the Labour Court is confirmed. The Award of the Labour Court directing payment of full backwages is modified to 50% backwages only. It is made clear that the Corporation shall settle the 50%



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backwages and other service benefits to the respondents 2 to 5 along with the arrears of pension and pension, if found eligible, within a period of three months from the date of receipt of a copy of this order.

10. Accordingly, this writ petition stands partly allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

20.11.2023

Index : Yes / No

Internet : Yes / No

Speaking Order/Non-speaking order
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To

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N.MALA, J.

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