



W.P.No.13951 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.13951 of 2016
and
W.M.P.No.12209 of 2016

The Branch Manager,
Tamil Nadu State Transport Corporation,
Puducherry.

...Petitioner

Vs

1.The Presiding Officer,
Labour Court at Puducherry.

2.K.Muruganantham

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the order passed by the first respondent in Claim Petition No.7/2011 dated 12.04.2014 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.M.Aswin

For R2 : Mr.Balavijayan



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ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. Based on certain proven charges, the second respondent herein was imposed with a punishment of reduction of salary for 3 years by the petitioner Transport Corporation, through their order dated 05.03.2001. This order was set aside by the High Court in W.P.No.7761 of 2001, dated 05.08.2009. Consequently, the Transport Corporation, through their letter dated 13.10.2009, had cancelled their order of punishment. However, the order of cancellation was not implemented and the second respondent herein was paid a lesser salary, in accordance with the original punishment of reduction in salary, till the month of August, 2011. Claiming the deficit amount that was not paid to the second respondent, he had filed a Claim Petition in C.P.No.7 of 2011 under Section 33C(2) of the Industrial Disputes Act, 1947. By an order dated 12.04.2014, the Labour Court had allowed the application and directed the petitioner Corporation to pay a sum of Rs.2,54,565/-, after deducting the GPF contribution, together with 6% interest. A cost of Rs.10,000/-



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was also awarded in favour of the second respondent herein. Challenging the said order, the Transport Corporation is before this Court.

3. The learned counsel for the petitioner submitted that the Labour Court had not properly calculated the arrears, which was due to the workman, and that the calculation is not reflected in the order. According to the learned counsel, RW1 had admitted before the Labour Court that a sum of Rs.76,866.55/- alone is due to the second respondent herein.

4. On the other hand, the learned counsel appearing for the second respondent produced a copy of Ex.P5, which is the calculation memo and which reflects the loss for every month from 2001 to 2011, owing to reduced payment of salary, which has been accepted by the Labour Court and accordingly, a total sum of Rs.2,54,565/- was computed.

5. Under Section 33C(2) of the Industrial Disputes Act, 1947, any workman who is entitled to receive from the employer any money which is capable of being computed in terms of money, then the question may be decided by the Labour Court. In accordance with this provision, the



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concerned workman is required to substantiate before the Labour Court as to the amount which he is eligible for and likewise, the Management is also bound to substantiate their case with regard to either the workman's dis-entitlement or his entitlement for a reduced amount.

6. In the instant case, while the second respondent herein had produced the calculation memo, which is marked as Ex.P5 and had also examined himself as PW1, the Transport Corporation has not produced any document or a calculation memo to disprove Ex.P5. Apart from the increment proceedings, which was marked as Ex.R1, no other document has been filed on the Management side. The Labour Court had taken into account the calculation memo i.e., Ex.P5 and had come to the conclusion that the workman is entitled for the payment of arrears to the tune of Rs.2,54,565/-.

7. I do not find any infirmity in such a finding. Merely, because RW1 had got into the box and deposed that the second respondent is entitled only for Rs.76,866.55/-, it cannot be conclusive, in the absence of any calculation memo or any other document before the Labour Court



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to disprove the document which the petitioner has filed. This Court, exercising its power under Article 226 of the Constitution of India, will not venture into re-computing the Claim Petition. Thus, there is no infirmity in the order nor does the order suffer from any other illegality. As such, I do not find any reason to interfere with the order passed by the Labour Court.

8. In the result, the Writ Petition stands dismissed. In view of the dismissal of the Writ Petition, there shall be a direction to the petitioner Transport Corporation to forthwith pass orders, disbursing the entire payment, as ordered by the Labour Court, in C.P.No.7 of 2011, dated 12.04.2014, within a period of four weeks from the date of receipt of a copy of this order, after deducting any amount that may have been either belatedly paid to the second respondent or deposited before the Labour Court. Such orders shall also include revision of the second respondent's pension benefits, as well as disbursement of any other retirement benefits, which may have been withheld by the petitioner Corporation. The second respondent is also at liberty to make an appropriate application, seeking for withdrawal of the amounts that have been



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deposited before the Labour Court. On receipt of such an application, the Labour Court shall endeavour to pass orders for withdrawal of the amount, preferably on the same day of the application. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order/Non-speaking order
hvk

To

1. The Presiding Officer,
Labour Court at Puducherry.
2. The Branch Manager,
Tamil Nadu State Transport Corporation,
Puducherry.



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M.S.RAMESH,J.

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