



WEB COPY



W.P.No.9754 of 2004 and
W.P.No.20978 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.9754 of 2004

and

W.P.No.20978 of 2009

and

WPMP.No.11410 of 2004

W.P.No.9754 of 2004:-

The Management,
Pallavan Transport Corporation Limited,
(Now named as Metropolitan Transport)
Corporation (Division I) Limited,
Pallavan Illam, Chennai - 600 002.

... Petitioner

-Vs-

1.M.Vellaichamy

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

3.The Management,
Dr.Ambedkar Transport Corporation Limited,
(now names as Metropolitan Transport Corporation
Division II) Limited, Chennai - 600 023.
R.3 not necessary party in this proceedings
hence he is given up)

... Respondents



W.P.No.9754 of 2004 and
W.P.No.20978 of 2009

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records dated 21.02.2003 and made in ID.No.1 of 1998 on the file of the First Additional Labour Court, Chennai the Second Respondent herein and quash the same.

For Petitioner	: Mr.R.Balaji
For R1	: Mr.S.Ravi
R2	: Court
R3	: Given up

W.P.No.20978 of 2009:-

The Management of
Metropolitan Transport Corporation,
(Chennai) Limited,
(Formerly Known as
Dr.Ambedkar Transport Corporation Limited,
Pallavan House, Anna Salai,
Chennai - 600 002. ... Petitioner

-Vs-

1.The Presiding Officer,
First Additional Labour Court,
High Court Buildings,
Chennai.

2.M.Vellaichamy ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for the records of the first respondent in C.P.No.443 of 2003 dated 17.08.2007 and quash the same.

For Petitioner	: Mr.R.Balaji
R1	: Court
For R2	: Mr.S.Ravi



W.P.No.9754 of 2004 and
W.P.No.20978 of 2009

COMMON ORDER

WEB COPY

The W.P.No.9754 of 2004 has been filed challenging the award dated 21.02.2003 passed in I.D.No.1 of 1998 on the file of the second respondent, thereby directing the third respondent to reinstate the first respondent with continuity of service, backwages and other attendant benefits.

2. The W.P.No.20978 of 2009 has been filed challenging the order passed by the first respondent in C.P.No.443 of 2003, under Section 33(c)(2) of the Industrial Disputes Act, thereby directing the petitioner to pay the backwages and all other attendant benefits.

3. The first respondent in W.P.No.9754 of 2004 and the second respondent in WP.No.20978 of 2009 raised an Industrial Dispute before the Labour Court under Section 2A(2) of the Industrial Disputes Act, as against the order of dismissal. The workman was suspended by an order dated 29.03.1994 on the allegation that on 17.02.1994, he was driving the bus and he caused a fatal accident, due to rash and negligent driving. Thereafter, the workman was served with a charge memo and without being satisfied with the explanation submitted by the workman, an enquiry was ordered. The Domestic enquiry was



W.P.No.9754 of 2004 and
W.P.No.20978 of 2009

WEB COPY

conducted and concluded that the charges were proved against the workman. In pursuant to the enquiry report, the workman was dismissed from service.

4. In pursuant to the said fatal accident, the workman was served a charge memo. The charge itself is that he was driving the bus in a rash and negligent manner and caused death of the pedestrian, on 17.02.1994. However, the petitioner in W.P.No.9754 of 2004 failed to examine any of the witness to prove that, only on the rash and negligent driving of the workman, the accident was occurred. Even then, the Enquiry Officer concluded that the charges as against the workman were proved. Therefore, the Labour Court had rightly concluded that the petitioner in W.P.No.9754 of 2004 failed to prove the charges and ordered to reinstate the workman into service with service continuity and backwages.

5. On the basis of the award passed in ID.No.1 of 1998, the workman filed a Claim Petition No.443 of 2003 before the Labour Court. On the strength of the award passed against the Management, the Claim Petition was ordered and directed to pay the arrears of salary and other benefits to the workman. The workman was dismissed from service on 13.12.1994 and reinstated into service



W.P.No.9754 of 2004 and
W.P.No.20978 of 2009

on 15.06.2004. Though the petitioner in W.P.No.20978 of 2009 failed to prove that the workman was gainfully employed during the dismissal period, the award of ordering full backwages is liable to be reduced to 50% of backwages, since the workman is being a Driver, he could not have kept himself idle without going for any job. The waiting period was more than ten years. Therefore, this Court feels that 50% of backwages would suffice the workman. Accordingly, the backwages alone is modified to 50% and the 50% of the backwages shall be paid by the petitioner in W.P.No.20978 of 2009 to the workman, within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, these writ petitions are partly allowed. Consequently, connected Miscellaneous petition is closed. There shall be no order as to costs.

14.09.2023

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
rjr/mn



WEB COPY



W.P.No.9754 of 2004 and
W.P.No.20978 of 2009

G.K.ILANTHIRAIYAN, J.

mn

To

1. The Presiding Officer,
Labour Court,
First Additional Labour Court,
Chennai.
2. The Management,
Dr.Ambedkar Transport Corporation Limited,
(now names as Metropolitan Transport Corporation
Division II) Limited, Chennai - 600 023.

W.P.No.9754 of 2004
and
W.P.No.20978 of 2009
and
WPMP.No.11410 of 2004

14.09.2023