



W.P.No.5428 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.5428 of 2020 and
W.M.P.No.6356 of 2020

The Management,
Tamil Nadu Government Transport Corporation,
(Kovai Division) Kovai Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.

... Petitioner

Vs.

R.Murali Chandiriraj

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, to call for the records in C.P.No.30 of 2018 on the file of the Additional Labour court, Coimbatore, dated 25.10.2019 and quash the same.

For Petitioner : Mr.A.Sundara Vadhanan

For Respondent : Ms.V.Prokodi

ORDER

Challenging the Award passed by the Additional Labour Court, Coimbatore in C.P.No.30 of 2018, dated 25.10.2019, the present Writ petition is filed.



W.P.No.5428 of 2020

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2. The respondent was working as a driver in the Writ Petitioner Management. On 28.12.2017, he drove a bus bearing Registration No.TN 38 N 2840 in a rash and negligent manner and hit a pedestrian, as a result of which, the pedestrian died on spot and the respondent was placed under suspension on 29.12.2017. Subsequently, the Management passed an interim order, directing the respondent to report for duty on 28.01.2018 and the same was pasted in the notice board of the office. However, the respondent did not report for duty. The contention of the respondent is that only when he was communicated with the charge memo on 14.05.2018, he came to know about the interim orders passed by the petitioner Management, directing him to report for duty on 28.01.2018 and he joined duty on the next day i.e., 15.05.2018.

3. Since the Writ Petitioner did not pay the subsistence allowance for the period from 28.01.2018 to 15.05.2018, he filed a Computation Petition in C.P.No.30 of 2018 under Section 33C(2) of the Industrial Disputes Act before the Additional Labour Court, Coimbatore. The Presiding Officer, Additional Labour Court, Coimbatore vide his



W.P.No.5428 of 2020

orders dated 25.10.2019, quantified the amount payable to the respondent as Rs.27,455/-. Aggrieved over the said orders, the present Writ petition is filed by the Management.

4. Mr.A.Sundara vadhanan, learned counsel for the petitioner/Management contended that the petitioner Management is liable to pay subsistence allowance only from 29.12.2017 to 28.01.2018 and as this amount has already been paid by the Management, they are not liable to pay any further amount. According to him, the petitioner / Transport Corporation after passing interim orders like suspension and reinstatement, would paste the same in the notice board and concerned authorities would communicate the same to the workman over phone or through letter. In the present case, the respondent was intimated over phone and he did not join duty immediately after getting instructions. He therefore prayed for allowing this Writ Petition.

5. Per contra, Ms.V.Porkodi, learned counsel appearing for the respondent workman contended that the Labour Court after analysing the



W.P.No.5428 of 2020

WEB COPY

oral and documentary evidence on record, had passed a well reasoned order and the Management having failed to intimate the interim orders passed by them, directing the respondent to join duty on 28.01.2018 in the manner known to law, cannot contend that the workman was informed over phone. According to her, the workman immediately after coming to know of the revocation of suspension order on 14.05.2018, he reported for duty the very next day i.e., 15.05.2018. Had he known it on 28.01.2018 itself, he would have joined duty in the month of January itself. She therefore prayed for dismissal of the Writ Petition.

6. A perusal of the records shows that the Computation Petition in C.P.No.30 of 2018 was filed praying for subsistence allowance from the period 29.01.2018 to 04.04.2018. The respondent was placed under suspension on 29.12.2017. Subsequently, the order of suspension was revoked and the petitioner Management directed the respondent to join duty on 28.01.2018. This has not been properly communicated to the respondent workman and on the contrary the contention of the petitioner management is that it was pasted in the notice board. Subsequently a



W.P.No.5428 of 2020

WEB COPY

charge memo was served to him on 14.05.2018 and in the said charge memo, it was mentioned that the interim orders were passed by the petitioner Management, directing the respondent to join duty on 28.01.2018. The respondent after coming to know of the said fact, immediately joined duty on 15.05.2018. The Labour Court, had actually gone into all these aspects while passing orders on 25.10.2019 and I do not find any reason to interfere with the same. Accordingly, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.12.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

To

The Additional Labour Court, Coimbatore.

R. HEMALATHA, J.



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W.P.No.5428 of 2020

vum

W.P.No.5428 of 2020 and
W.M.P.No.6356 of 2020

11.12.2023