



W.P.No.7600 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.P.No.7600 of 2011 and

M.P.Nos.1 of 2011, 1 of 2013 and 2 of 2013

Prasath Transport
No.43, Thiruvalluvar Nagar Road,
Katpadi, Vellore District.

...Petitioner

..Vs..

1. A. Kotteswaran
2. The Principal Labour Court,
Vellore District, Vellore.

...Respondents

Prayer:– Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for the records of the 2nd respondent in I.D.No.137 of 2009 dated 08.02.2011 and quash the same.

For Petitioner : Mr.P.Chandrasekar

For R1 : Mr.S.T.Varadarajulu
For R2 : Court

ORDER

The petitioner–Transport Corporation has filed the writ petition against the award of Labour Court in respect of the first



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respondent/Koteeswaran. After the accident, the first respondent was employed as a Driver on a daily wage basis which is met with an accident on July 2007 has left the post of driver and moved away from the scene and thereafter he was terminated from the service on 07.10.2004 and he has raised an Industrial Dispute before the Labour Court based upon the failure report given by the Labour Officer on 16.02.2009. The Labour Court, Vellore has taken on file in I.D.Case No.137 of 2009 under Section 2A(2) of the Industrial Disputes Act,1947 to reinstate him in service, continuity of service, back wages and all other attendant benefits.

2. The Tribunal in its operative portion of the order as directed that the petitioner has not gainfully employed anywhere and hence he is entitled for benefits from 06.10.2008. The above said date has been fixed based upon the finding rendered at Para No.14.

3. The learned counsel appearing for the petitioner contended that during the pendency of the proceedings before the Labour Court, the 1st respondent-Koteeswaran was gainfully employed in Government Transport Corporation and he has to obtain the necessary particulars from the concerned department under Right to Information Act.



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4. The learned counsel appearing for the petitioner further contended that after the vehicle met with an accident, the 1st respondent has left the place without intimation and therefore, the private transport company has terminated his service and hence, he raised an Industrial Dispute before the Court and the Court has ordered, reinstatement, continuity of service and full back wages.

5. Mr.S.T.Varadarajulu, learned counsel appearing for the first respondent contended that the burden of proof that he was not gainfully employee is upon the management.

6. The learned counsel appearing for the petitioner has produced a letter from the office of District Forest Office, Tirupattur under RTI Act that the first respondent has joined duty as Driver on 19.11.2010 and the information furnished by the Government and the Right to Information Act is filed before this Court.

7. The learned counsel appearing for the second respondent is not disputing the same and therefore from the date fixed by the Labour Court namely 06.10.2008, the second respondent is entitled for back wages at the rate of Rs.4,500/- (admitted salary).



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8. In other words, for 25 months from 06.10.2008 to 19.11.2010 namely 25*4500/-=Rs.1,12,500/- to be paid by the petitioner to the first respondent within a period of six weeks from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition is disposed of. No costs. Consequently, connected M.Ps are closed.

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Index:Yes/No

Neutral Citation : Yes/No

To

The Principal Labour Court,
Vellore District, Vellore.



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