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W.P.No.9781 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

<i>Reserved on</i>	<i>19.04.2023</i>
<i>Pronounced on</i>	<i>28.04.2023</i>

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.9781 of 2018
and W.M.P.No.11725 of 2018

The Managing Director,
Metropolitan Transport Corporation,
(Chennai) Ltd.,
Anna Salai,
Chennai – 600 002.

... Petitioner

Vs.

1.The Presiding Officer,
III Additional Labour Court,
City Civil Court Annexure Building,
High Court Compound,
Chennai – 600 104.

2.Mrs.A. Bakialakshmi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed in I.D.No.289 of 2013 dated 24.01.2018 on the file of the 1st respondent herein and quash the same.



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For Petitioner : Mr.M. Chidambaram

For R1 : Court

For R2 : Mr.R. Lawrence

ORDER

The second respondent herein, is the widow of one M. Sait, who was appointed in the petitioner/Corporation as a conductor on 06.03.1990. The deceased conductor was subjected to certain charges under a Charge Memo dated 22.10.2007, for the charge of unauthorized absence for 8 days from 29.09.2007. In the reply given by the deceased conductor, it was stated that since he was suffering from Jaundice, he was unavoidably absent and had also produced a medical certificate. The petitioner, however, without conducting an inquiry, had terminated the deceased workman on 28.03.2008. Challenging the order of termination, the deceased workman had raised a dispute in I.D.No.289/2013 before the III Additional Labour Court, Chennai. Pending the Industrial Dispute, the workman died on 12.11.2014 and the second respondent/wife was substituted in his place. By an award dated 24.01.2018, the Labour Court had set aside the



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termination order dated 28.03.2008, as arbitrary and unjustifiable. In the impugned award, it was also observed that the second respondent's husband had died at the age of 58 years and since he would have been entitled for reinstatement, had he been alive, had ordered for family pension to the second respondent/wife herein, together with a lumpsum compensation of Rs.6,40,000/- in lieu of reinstatement and all other attendant benefits, retirement and family pension benefits. Challenging the said award, the present Writ Petition has been filed.

2. The core issue that arises for consideration before this Court is, as to whether the termination order, passed without conducting an inquiry, is legally justifiable or not?

3. The Certified Standing Orders governing the employees of the petitioner/Corporation for all internal administration and disciplinary actions, specifically provides for a domestic inquiry for any disciplinary action of a misconduct by its employees.



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4. In the case of *'State of Uttarakhand & others Vs. Sureshwati'* reported in *'(2021) 3 SCC 108'*, the Hon'ble Supreme Court had referred to various of its decisions including the decisions in *'Workmen Vs. Motipur Sugar Factory (P) Ltd'* reported in *'AIR 1965 SC 1803'*, *'Delhi Cloth & General Mills Co. Vs. Ludh Budh Singh'* reported in *'(1972) 1 SCC 595'* and *'Workmen Vs. Firestone Tyre & Rubber Co. of India (P) Ltd.,'* reported in *'(1973) 1 SCC 813'* and held *inter alia* that before imposing a punishment, an employer is expected to conduct a proper inquiry in accordance with the provisions of the Standing Orders, if applicable, and principles of natural justice and that the inquiry should not be an empty formality.

5. It is not in dispute that the petitioner/Corporation is governed by its own Certified Orders and all the internal administration and disciplinary actions, as against the workmen, have to be necessarily done by the Corporation, only in accordance with the Certified Standing Orders. When the Certified Standing Orders specifically provides for conducting an



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inquiry before imposing a punishment of a misconduct, the same cannot be violated by the Corporation themselves. Thus, the consequential punishment of termination from service, without the inquiry, is *ab initio void*. The Labour Court had properly appraised these aspects and had set aside the order of termination. Hence, I do not find any illegality or infirmity in such a finding.

6. Likewise, since the termination order was set aside, the Labour Court had held that the second respondent/wife, would be entitled for family pension, together with all other retirement and other attendant benefits. A lumpsum compensation of Rs.6,40,000/- has also been awarded in lieu of reinstatement. When the termination order has been rightly set aside, the deceased workman is deemed to have continued in service from the date of his dismissal till the date of his attaining the age of superannuation. Thus, the second respondent would be entitled for the Death Cum Retirement Gratuity Benefits, together with all other pensionary benefits, including family pension.



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7. In the light of the above observations, the Writ Petition stands dismissed. Consequently, there shall be a direction to the petitioner/Corporation to forthwith disburse the Death Cum Retirement Gratuity Benefits, together with pensionary benefits to the second respondent/wife, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Connected miscellaneous petition is closed.

28.04.2023

Speaking Order
Index : Yes
Internet: Yes
Neutral Citation: Yes

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Note: Issue Order Copy Today



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To

The Presiding Officer,
III Additional Labour Court,
City Civil Court Annexure Building,
High Court Compound,
Chennai – 600 104.



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M.S.RAMESH,J.

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Order in
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