



W.P.No.8820 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.8820 of 2023

and

WMP.No.8990 & 22992 of 2023

The Management,
Tamil Nadu State Transport Corporation,
37, Mettupalayam Road, Coimbatore – 43.

...Petitioner

Vs.

R.Vijay
...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the Additional Labour Court, Coimbatore pertaining to his proceedings in C.P.No.30 of 2021 dated 16.09.2022 and quash the same.

For Petitioner : Mr.A.Vinothraj

For Respondent : Mrs.V.Porkodi

ORDER

Though the Miscellaneous petition in WMP.No.22992 of 2023,



W.P.No.8820 of 2023

seeking to fix an early date for the final hearing of the main Writ petition is listed today, however, in view of the consent expressed by the learned counsel on either side, the main Writ petition itself is taken up for final disposal.

2. The petitioner has come up with this Writ petition seeking quashment of the order of the Additional Labour Court, Coimbatore made in C.P.No.30 of 2021 dated 16.09.2022.

3. The case of the petitioner is that the respondent was appointed as conductor in the petitioner corporation in the year 2008. While so, on 26.03.2021, when the Checking Inspector conducted inspection, it was found that, the respondent had not charged for the luggages of the passenger and when the same was questioned, the respondent misbehaved with the checking inspector. Therefore, the petitioner management placed the respondent under suspension, vide order dated 27.03.2021 with effect from 29.03.2021 and he was subsequently permitted to join duty from 13.04.2021, without prejudice to the disciplinary enquiry and subsistence allowance was also paid for the period 29.03.2021 to 13.04.2021. Despite



W.P.No.8820 of 2023

payment of subsistence allowance and permitting to join duty, the respondent did not join the duty. In the mean time, a charge memo dated 08.06.2021 was issued as against the respondent, upon receipt of which, the respondent, vide his explanation dated 17.06.2021 sought permission to join duty, pursuant to which, the respondent reported duty on 06.07.2021. In such circumstance, the respondent filed a Computation petition in C.P.No.30 of 2021, claiming a sum of Rs.51,374/- towards subsistence allowance for the period 13.04.2021 to 05.07.2021 and the Labour Court, without considering any of the above said facts, passed an order dated 16.09.2022, directing the petitioner management to pay the subsistence allowance to the respondent. Challenging the same, the petitioner has come up with this Writ petition.

4. Learned counsel for the petitioner submitted that, though the respondent was placed under suspension, vide order dated 27.03.2021 with effect from 29.03.2021, however, the said suspension order was revoked as early as on 09.04.2021 and the respondent was permitted to join duty from 13.4.2021 and the said revocation order was affixed in the notice board of the Karumathampatti depot till 20.04.2021, despite which the respondent



W.P.No.8820 of 2023

had not turned up for duty and he joined duty only on 06.07.2021. However, without considering any of the above said facts, the Labour Court passed the present impugned order directing the petitioner management to pay the claim amount, which is *per se* illegal. Hence, he prayed for appropriate orders.

5. Learned counsel appearing for the respondent submitted that, though the petitioner claims that the suspension order was revoked, vide order dated 09.04.2021, it is pertinent to note that, the said revocation order was communicated to the respondent only on 22.06.2021. Though the respondent sent several letters to the petitioner management on 31.03.2021, 07.05.2021, 17.06.2021, 18.06.2021, 23.06.2021 and 05.07.2021, there was no proper reply from the petitioner management with regard to revocation of the suspension order. In such circumstances, expecting the respondent to join the duty as early as on 13.04.2021 is wholly unsustainable and the Labour Court, after taking into consideration all the above said facts have rightly passed an order for payment of claim amount to the respondent, which cannot be interfered with. Hence, he prayed for dismissal of this Writ petition.



W.P.No.8820 of 2023

WEB COPY 6. Heard learned counsel on either side and perused the materials available on record.

7. Admittedly, for alleged misconduct, the respondent was placed under suspension, vide order dated 27.03.2021. Though the petitioner corporation claim that the suspension order was subsequently revoked, vide order dated 09.04.2021, however, it is evident from the postal cover, Ex.W-22 marked before the Labour Court that, though the revocation order was passed on 09.04.2021, however, the same was belatedly communicated to the respondent only on 22.06.2021 and the same was also admitted by MW1, staff of the petitioner corporation itself. Therefore, the respondent/workmen joined the duty on 06.07.2021 and the delay caused by the petitioner corporation cannot be put against the respondent for denying payment of subsistence allowance for the period between 13.04.2021 to 05.07.2021.

8. Further, all the above said facts were elaborately considered by the Labour court and the present impugned order came to be passed, directing



W.P.No.8820 of 2023

the petitioner corporation to pay the subsistence allowance of Rs.51,374/- along with 6% interest per annum to the respondent. Though the said order directing payment of the claim amount is just and reasonable, this Court is of the view that no interest is required to be paid for the said amount as the respondent was permitted to join duty. The petitioner corporation is directed to pay the claim amount of Rs.51,374/- as ordered, vide order dated 16.09.2022 in C.P.No.66 of 2021, however, without any interest, to the respondent within period of two weeks from the date of receipt of a copy of this order. Failing payment of the aforesaid amount within the period noted above, the petitioner would be liable to pay interest on the said amount at 6% p.a. from the date of award till the date of payment.

9. For the reasons aforesaid, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

16.08.2023

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NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No

6/8



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W.P.No.8820 of 2023

M.DHANDAPANI., J.

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W.P.No.8820 of 2023
and
WMP.No.8990 & 22992 of 2023



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W.P.No.8820 of 2023

16.08.2023