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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 28.11.2022

DELIVERED ON : 02.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.38358 of 2015
and
M.P.Nos.1 and 2 of 2015

The Management,
Tamilnadu State Transport Corporation (Kumbakonam)Ltd..,
Kumbakonam
Rep by its Managing Director ... Petitioner

.Vs.

1. R.Ramalingam,
   No, 13, Kaariyankudi Chetty Street,
   Velippalayam, Nagapattinam

2. The Presiding Officer,
   Labour Court, Cuddalore ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari or any writ, order or direction to call for the records of the order passed by the 2nd Respondent in claim petition No.

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9/06 dated 20.11.2013 and to quash the same.

For Petitioner : Mr.Aswin for M/S S.Sathya Gandhi

For Respondents : Mr.R. Krishnaswamy for R1

For R2 - Court

ORDER

This writ petition is filed by the Petitioner-Management, Tamilnadu State Transport Corporation, challenging the order passed by the 2nd Respondent/Labour Court, in Claim petition No.9/06 dated 20.11.2013 and seeks to quash the same.

2. The 1st respondent-driver was working under the petitioner/Transport Corporation and he was dismissed from service on 28.10.1992. Since the said dismissal order was passed by the Management without obtaining approval from the Industrial Tribunal, 1st respondent/workman filed Claim Petition No.9/2006 before the Labour Court under Section 33(c)(2) of Industrial Disputes Act, 1947, claiming

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Rs.6,15,816.80 towards 17B Wages, backwages, bonus and earned leave salary etc.

3. In the mean while, the Management entered into settlement and paid amount and the workman also issued receipt to the Petitioner/Management stating he received Rs.2,81,866/- by way of cheque dated 27.03.2006.

4. The Labour Court, taken the Claim Petition No.9 of 2006 on its file and examined the workman and Management and also marked exhibits on both sides. The Labour Court, pointed out that the calculation sheet filed by the workman was not specifically denied by the Management, but the Management has not stated about the salary, bonus payable to the workman. The Labour Court, while accepting the calculation filed by the workman, observed that Rs.2,81,866/- was already received by the workman by way of cheque and towards full settlement of the claim, workman is entitled to Rs.6,08,935/-, therefore, after deducting the amount already received, he would be entitled to Rs.3,27,069/-. The Labour Court further pointed out

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that the undertaking given by the workman to contract away the legal right is not valid; since the Claim Petition is not withdrawn, the workman was entitled to Rs.3,27,069/-. The Labour Court thus directed the Management to pay Rs.3,27,069 to the workman.

5. Heard both sides and perused the records carefully.

6. Admittedly, the workman filed claim petition after his dismissal from service on 28.10.1992. The writ petitioner/management stated that they have paid entire amount after the filing of the claim petition. The workman received Rs.281866/- by way of cheque and he also admitted in the cross examination that he received the cheque amount. But the said amount is not full settlement of the claim. The Labour court, has given a finding that overall, the workman is entitled to Rs.608935/-; after deducting the amount received by the petitioner/management, the workman is entitled to Rs.327069/-. The Labour court held that the undertaking of the workman is not valid and any agreement not to pursue legal proceedings is not valid and

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such an agreement cannot be specifically enforced. The Labour court thus categorically held that the workman is entitled to Rs.327069/-.

7. In the light of the findings of the Labour court that the workman's claim is valid, this court do not find any ground warranting interference. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

02.03.2023

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
nvsri

J.NISHA BANU, J.,

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To
The Presiding Officer,
Labour Court,
Cuddalore

W.P. No.38358 of 2015

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