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W.A.Nos.1581-1584/2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 14-02-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MRS.JUSTICE R.KALAIMATHI

W.A.Nos.1581-1584 of 2021

K.P.Sakthivel	...	Appellant in W.A.No.1581/2021
V.Shanmugam	...	Appellant in W.A.No.1582/2021
R.Sivakumar	...	Appellant in W.A.No.1583/2021
P.Kanagaraju	...	Appellant in W.A.No.1584/2021

-VS-

1.The Management of Tamilnadu State Transport Corporation
(Coimbatore Division) Limited,
38 (37), Mettupalayam Road,
Coimbatore – 641 043.

2.The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents in all W.As.

W.A.No.1581 of 2021 is filed under Clause 15 of the Letters Patent against the order, dated 10.09.2019, passed in W.P.No.3996 of 2015, on the file of this Court.



W.A.No.1582 of 2021 is filed under Clause 15 of the Letters Patent against the order, dated 10.09.2019, passed in W.P.No.3999 of 2015, on the file of this Court.

W.A.No.1583 of 2021 is filed under Clause 15 of the Letters Patent against the order, dated 10.09.2019, passed in W.P.No.3997 of 2015, on the file of this Court.

W.A.No.1584 of 2021 is filed under Clause 15 of the Letters Patent against the order, dated 10.09.2019, passed in W.P.No.3998 of 2015, on the file of this Court.

For Appellant in all W.As.: Mr.V.Ajay Khose

For Respondent 1 in all W.As.: Mr.A.Sundaravadhanan

JUDGMENT

These Writ Appeals have been preferred by the appellants-employees of the first respondent-management, questioning the order of the learned single Judge, dated 10.09.2019, passed in W.P.Nos.3996,3999,3997 and 3996 of 2015, reversing the order of the Labour Court, dated 22.04.2014, in C.P.Nos.71,72,74 and 73 of 2013 respectively.

2. Appellants joined the service of the first respondent management as Conductors or Drivers, as the case may be, and they were regularised in service by orders, dated 07.10.2008 and 28.01.2003, with retrospective dates. Pursuant to the



orders of regularisation, the respondent management started extending monetary benefits to the appellants only from the date of the orders and not from the date of regularisation of their services, which has been admitted by the management in the said orders. Since the appellants were not paid the monetary benefits, they approached the Labour Court by way of Computation Petitions, after five years.

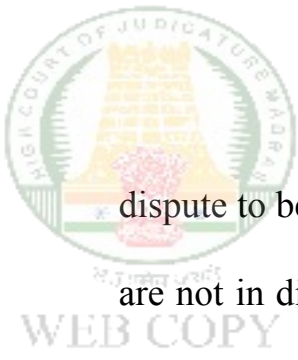
3. The respondent management contended that the appellants would be entitled to the benefit on and from the date of the order of regularisation passed by the management, apart from the fact that the appellants are not entitled to any differential salary with retrospective effect, more so, when the demand was made after a lapse of five years, and that the management was justified in paying the amount due to the appellants prospectively. The Labour Court did not accede to the said contention of the management and rejected the plea with regard to maintainability of the Computation Petitions under Section 33-C(2) of the Industrial Disputes Act, 1947, holding that the employees would be entitled to the relief as prayed for, and determined the amount payable to the employees. Questioning the said order of the Labour Court, dated 22.04.2014, the management preferred Writ Petitions. The learned single Judge, accepting the contentions of the management that the computation petitions under Section 33-C(2) were not maintainable as the employees were to get their grievance redressed by means of an industrial dispute and that there was enormous delay in



claiming the amount by the employees apart from the fact that there was no pre-existing right and that as the employees were employed on temporary basis, they would not be entitled to any monetary benefit as demanded by them, allowed the Writ Petitions and set aside the orders of the Labour Court. Aggrieved over the said orders passed by the learned single Judge, the present Writ Appeals have been preferred.

4. Very same contentions have been put forth by the management in the present cases before us to uphold the order of the learned single Judge, setting aside the order of the Labour Court.

5. We are not inclined to accept the contentions of the management. When there is a pre-existing right, there is no need for adjudication either under Section 10 or under Section 2A of the Industrial Disputes Act. The contention that there should be an adjudication before determining the computation petition cannot be accepted, as the employees in these appeals are seeking for the benefit based on the order of regularisation passed by the management. In the orders of regularisation, dated 07.10.2008 and 28.01.2003, the management has confirmed the services of the employees and regularised their services with effect from a retrospective date, which means that the employees have attained regularisation with retrospective date, for which the monetary benefits need to be extended. Hence, there is no need for an industrial



dispute to be raised, adjudicated, and thereafter amount to be determined, when the facts are not in dispute. Hence, we are of the view that the computation petitions before the Labour Court are maintainable and the finding of the learned single Judge, on that score, is necessarily to be interfered with. Similarly, with regard to delay, when there is a pre-existing right and the money flows pursuant to a settlement or award or based on the admitted facts by the management, such as the present one, where the management has passed an order regularising the services of the employees with retrospective effect, on the line of the decisions of the Supreme Court in *Central Bank of India v. P.S.Rajagopalan*, AIR 1964 SC 743, and, *Municipal Corporation of Delhi v. Ganesh Razak*, 1995 (1) SCC 235, the employees are entitled to receive any money or benefit, which is capable of being computed from the employer and there is no delay for the employer or the Labour Court to reject the request of the employees. A Division Bench of this Court, in W.A.No.2155 of 2021, dated 30.01.2023, while considering the issue with regard to the benefit flowing to the employee under a settlement, has categorically held that the Labour Court is empowered to decide a pre-existing right without any adjudication. In this case, the benefit accrues from the orders of the management, wherein, it is admitted that the employees have been regularised with retrospective effect. Hence, the employees are entitled to the monetary benefit, as determined by the Labour Court, and the finding of the learned single Judge, on this issue, is interfered with.



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6. Writ Appeals are, accordingly, allowed. The respondent management is directed to disburse the amount to the appellants-employees, as ordered by the Labour Court, without interest, within a period of three months from the date of receipt of a copy of this order, if not already paid. If the management fails to pay the amount as aforesaid, it will fetch interest at 6% per annum from the date of the management regularising the services and the amount of interest shall be recovered from the Official(s), who is/are responsible to comply with the orders of the Court, and adverse entry shall be made in the service record of the said Officer(s) for dereliction of duty, that may be taken note of, for depriving promotions to the said Officer(s). In the light of the decision of the Supreme Court in *Central Co-operative Consumers' Store Ltd. v. Labour Court, H.P. at Shimla and another*, 1993 (3) SCC 214, the amount and interest shall be paid first and recovery of interest cannot wait for releasing the amount due to the employees. No costs.

Index : Yes/No

Internet : Yes/No

Speaking / Non-speaking Order
dixit

(S.V.N.,J.)

(R.K.M.,J.)

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W.A.Nos.1581-1587/2021

To

1.The Management of Tamilnadu State Transport Corporation
(Coimbatore Division) Limited,
38 (37), Mettupalayam Road,
Coimbatore – 641 043.

2.The Presiding Officer,
Labour Court,
Coimbatore.



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W.A.Nos.1581-1584/2021

S.VAIDYANATHAN,J.
AND
R.KALAIMATHI,J.

dixit

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