



WEB COPY



W.P.No.34583 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.34583 of 2016

and

W.M.P.No.29787 of 2016

The Management,
(J.J.T.C. Formerly R.G.T.C),
Now State Express Transport Corporation,
Chennai – 600 002.

... Petitioner

Vs.

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

2.K.Babu

3.The Law Secretary,
Government of Tamil Nadu,
Fort St. George,
Chennai.

... Respondents

[R-3 is suo-motu impleaded as per order
dated 30.09.2016 made in W.P.No.34583 of 2016]

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the order passed in C.P.No.25 of 2011 dated 12.02.2016 on the file of the 1st respondent herein and quash the same.



W.P.No.34583 of 2016

For Petitioner : Mr.M.Chidambaram
For Respondents : Mrs.H.Nandhini
for M/s.R.Krishnaswamy [R2]

ORDER

This Writ Petition has been filed seeking for a Writ of Certiorari, to call for the records pertaining to the order passed in C.P.No.25 of 2011 dated 12.02.2016 on the file of the first respondent herein and quash the same.

2. The case of the petitioner is that the second respondent was an ex-employee of the petitioner Corporation and he was appointed as a Driver. While the second respondent was in duty on 30.01.1995, he and others helped the passengers to smuggle Sandal Wood from Tamil Nadu to Kerala. Thereafter, the petitioner Corporation issued a charge sheet and called for explanation from the second respondent. Since the explanation was not satisfied, the petitioner Corporation ordered domestic enquiry by appointing an Enquiry Officer and the Enquiry Officer drawn proven minute. Thereafter, after providing opportunity to the second respondent, he was terminated from service on 17.07.1995. Challenging the order of termination, the second respondent raised an Industrial Dispute before the Labour Court. The Labour Court passed an award setting aside the order passed by the petitioner Corporation.



W.P.No.34583 of 2016

Challenging the same, the petitioner Corporation filed a writ petition in

W.P.No.30938 of 2007 and this Court, by its order, dated 10.02.2010,

dismissed the writ petition, pursuant to which, the second respondent was reinstated and thereafter, he retired from service. After retirement, the petitioner Corporation paid a sum of Rs.13,48,200/- being the arrears of salary and other allowance for the non-employment period. Being non-satisfied, the second respondent filed a claim petition in C.P.No.25 of 2011 claiming bonus, earned leave and ex-gracia amount. After adjudication, the Labour Court passed an award in favour of the second respondent. Challenging the same, the above writ petition is filed before this Court.

3. The learned counsel for the petitioner submits that, though the petitioner Corporation settled the arrears of salary and other allowances for the non-employment period to the second respondent, however, even then, the second respondent claimed bonus, earned leave and ex-gracia amount before the Labour Court is not sustainable. Without proper calculation, the Labour Court passed an award in favour of the second respondent is also not sustainable. Accordingly, he prays for appropriate orders.



W.P.No.34583 of 2016

4. The learned counsel appearing for the second respondent submits that, the first respondent/Labour Court in its order has made it clear that, the petitioner Corporation has not challenged the correctness of the calculation made by the second respondent in the calculation sheet. Unless the petitioner Corporation attacks the calculation sheet produced by the second respondent/workmen before the Labour Court, they cannot question the same before this Court in the present writ petition. Hence, she submits that, the award of the Labour Court cannot be interfered with under Article 226 of Constitution of India, unless there is a perversity in the order passed by the Labour Court.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent and perused the materials available on record.

6. Admittedly, the second respondent was terminated from service in the year 1995. Questioning the same, the second respondent raised an Industrial Dispute before the Labour Court and the Labour Court passed an award in favour of the second respondent and the same is confirmed by this Court in the above said writ petition. Thereafter, the entire salary amount was paid to the second respondent, however, the second respondent filed a claim petition before



W.P.No.34583 of 2016

the Labour Court by producing the calculation sheet. It is evident from the award passed by the first respondent/Labour Court that, the said calculation sheet produced by the second respondent was not objected by the petitioner Corporation by adducing evidence. In the absence of any evidence and perversity, this Court is not inclined to interfere with the order passed by the first respondent/Labour Court. Hence, the prayer sought for in the present writ petition cannot be granted and the writ petition is liable to be dismissed.

7. Accordingly, the writ petition is dismissed. However, the petitioner Corporation is directed to settle the award amount as ordered by the first respondent/Labour Court in C.P.No.25 of 2011, dated 12.02.2016 to the second respondent, within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

11.07.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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W.P.No.34583 of 2016

M.DHANDAPANI, J.

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To

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