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W.P.No.16307 of 2021 & W.M.P. No.17268 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.16307 of 2021 & W.M.P. No.17268 of 2021

The General Manager
Tamil Nadu State Transport Corporation
Villupuram Division -II Ltd.
Regional Head Office,
Rangapuram, Vellore 632 009

... Petitioner

Vs.

1. M. Porpatham

2. The General Manager
Tamil Nadu State Transport Corporation
Villupuram Division-IV Limited
Regional Head Office
District Collectorate Master Plan Campus
New Bye Pass Road, Vengikkal Post,
Thiruvannamalai District 606 604

3. The Managing Director,
Tamil Nadu State Transport Corporation
Villupuram Division, Head Office
No.3/137, Salamedu, Vazhuthareddy Post,
Villapuram District 605 602.

... Respondents

(No relief sought against 2 and 3 respondents. Hence they may be given up and notice may be dispensed with)



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Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the Award dated 23.07.2020 in Claim Petition No.31 of 2018 on the file of the Presiding Officer, Principal Labour Court, Vellore and to quash the same.

For Petitioner : Ms.S. Pavithra
For R1 : Mr.K.M. Ramesh, Senior Counsel

ORDER

Challenge in this Writ Petition is made to the Award dated 23.07.2020 in Claim Petition No.31 of 2018 on the file of the Presiding Officer, Principal Labour Court, Vellore.

2. The brief facts of the case are as follows:

- i. The 1st respondent was working as a driver on casual basis with effect from 01.02.1996.
- ii. He filed an application for regularisation of his service before the Labour Inspector, Thiruvannamalai, on 08.11.2004 under Section 3 of the Tamil Nadu Industrial Establishments (conferment of Permanent Status of Workmen) Act 1981 and an order was passed on 16.05.2005 directing the Writ Petitioner Management to make the 1st respondent a permanent employee with effect from 25.05.1997, as against which the Management filed



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W.P.No.12702 of 2006 before this Court. A single Judge of this Court vide his orders dated 27.02.2013 confirmed the orders passed by the concerned authority.

- iii. It is contended by the Management that an appeal was filed before a Division Bench of this Court along with a petition to condone the delay in filing the same and it is still pending in S.R. No.40026 of 2013.
- iv. Thereafter, the 1st respondent filed a Computation Petition in C.P.No.289/2013 seeking arrears of salary of Rs.15,45,374/- for the period 01.06.1997 to 30.11.2013 under Section 33 C(2) of the Industrial Disputes Act, 1947 (in short "the ID Act") before the Principal Labour Court, Vellore, and the same was allowed vide orders dated 06.08.2014. Pursuant to the same, the 1st respondent filed an Execution Petition E.P.No.95/2014 in C.P. No.289/2013. Aggrieved over the orders passed in C.P. No.289/2013, the writ Petitioner Management filed a Writ Petition in W.P.No.33528/2014 before this Court, in which an interim stay was granted on condition to deposit a sum of Rs.5,00,000/- to the credit of C.P. No.289/2013.



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v. Thereafter, the 1st respondent filed a Computation Petition in C.P.No.31/2018 under Section 33 C (2) of the ID Act before the Principal Labour Court, Vellore, seeking arrears of salary of Rs.17,05,844.20 for the period from 01.12.2013 to 31.03.2018. The Labour Court, vide its orders dated 23.07.2020 held that the 1st respondent is entitled only to a sum of Rs.13,11,380/- towards arrears of salary for the period 01.12.2013 to 31.03.2018 including bonus and other allowances.

vi. Aggrieved by the said orders, the present Writ Petition is filed by the Management.

3. Ms.S. Pavithra, learned counsel for the Writ Petitioner/ Management would contend that the appeal which is filed challenging the orders passed by this Court in W.P. No.12702 of 2006, along with a petition to condone the delay in filing the same is still pending in SR stage (S.R. No.40026 of 2013).

4. Mr.K.M. Ramesh, learned Senior Counsel appearing for the 1st respondent would contend that the order passed by the Labour Inspector was confirmed by this Court in W.P. No.12702 of 2006 and that the



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earlier computation petition in C.P. No.289/2013 was allowed on 06.08.2014. The Writ Petition challenging the orders passed in C.P.No.289/2013, filed by the petitioner Management in W.P.No.33528/2014 was dismissed by a Single Judge of this Court on 28.06.2023. He would therefore contend that since the petition filed for condonation of delay in filing the appeal against the orders passed in W.P. No.12702 of 2006 has not yet been numbered as on date, the order passed in W.P. No.12702 of 2006 has become final. He, therefore, prayed for dismissal of the present Writ Petition.

5. A perusal of the orders passed in W.P. No.12702 of 2006 shows that the orders passed by the Labour Inspector was confirmed by a single Judge of this Court and it was also held that the 1st respondent is entitled to get the benefits of the Tamil Nadu Industrial Establishments (conferment of Permanent Status of Workmen) Act 1981. The pendency of condonation of delay petition would not put the judgment in jeopardy. Therefore, the 1st respondent workman is entitled to get the benefits pursuant to the orders passed in Na.Ka.No.E 6919/04 dated 16.05.2005. The Labour Court, Vellore, has also rightly appreciated the position of law and has come to the definite conclusion that the workman is entitled



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to get a sum of Rs.13,11,380/- towards arrears of salary for the period 01.12.2013 to 31.03.2018 including bonus and other allowances.

6. In the result, the Writ Petition is dismissed as devoid of merits.

No costs. Consequently connected Writ Miscellaneous Petition is closed. The learned counsel for the 1st respondent prayed for permitting to withdraw the amount of Rs.5,00,000/- deposited by the Writ Petitioner Management at the time of filing W.P.No.33528/2014 to the credit of C.P.No.289/2013. The 1st respondent is at liberty to withdraw the said amount after filing proper application. The balance amount shall be paid by the Writ Petitioner Management within a period of two months from the date of receipt of a copy of this order.

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Index : yes/no

Speaking /Non speaking Order



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R.HEMALATHA, J.

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