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W.P.No.15919 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.15919 of 2019 and
W.M.P.No.15725 of 2019

The Managing Director,
Tamil Nadu State Transport Corporation
(CBE) Limited,
Erode Region,
Chennimalai Road,
Erode - 1.

... Petitioner

Vs.

V.Shanmugam

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the records relating to the orders, dated 09.08.2018 passed by the Labour Court, Salem in C.P.No.77/2016 and to quash the same.

For Petitioner : Mr.M.Murali Vinodh
Standing Counsel

For Respondent : Mr.C.Munusamy for
Mr.R.Arundattan



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ORDER

The respondent was appointed as a driver through Employment Exchange in the petitioner Management on 19.08.2007 and his services were regularised with effect from 23.09.2008. However, the petitioner/Transport Corporation did not pay him the salary as per the pay band 5335-90-6055-100-8255 for the period from 23.09.2008 to 20.05.2009 and instead the petitioner Management paid him a meagre amount of Rs.4,654/- per month as salary. Though several representations were given to the petitioner Management, they did not pay the actual salary of Rs.7,379/- per month. Therefore, he filed a petition under Section 33 (C) (2) of the Industrial Disputes Act, 1947 in C.P.No.77/2016 before the Labour Court, Salem against the Management.

2. The learned Labour Court Judge, vide his orders dated 09.08.2018, allowed the petition filed by the respondent and directed the Management to pay a sum of Rs.21,800/- together with interest at 9% per annum, for the period from 23.09.2008 to 20.05.2009, within a period of



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two months from the date of the order. Aggrieved over the same, the present Writ petition is filed.

3. Mr.M.Murali Vinodh, learned counsel for the petitioner/Management contended that the respondent accepted the settlement between the Employees Union and the Transport Corporation and therefore now he cannot claim a sum of Rs.21,800/- for the period from 23.09.2008 to 20.05.2009. It is also his contention that due to financial crises, the Management informed all the employees that they would be given all the benefits only from June 2009 and on the basis of the acceptance by the respondent, employee in this regard, his services were regularised. He would therefore contend that the orders passed by the Labour Court cannot be sustained.

4. Per contra, Mr.C.Munusamy, learned counsel appearing for the respondent contended that there is nothing on record to show that there was a settlement between the Corporation and the employees union and also no documentary evidence was adduced by the Writ Petitioner



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before the Labour Court showing that all the employees were informed that they would be given benefits from June 2009. Hence, the orders passed by the Labour Court is perfectly in order.

5. It is not disputed that the petitioner joined the service as a driver on 19.08.2007 through the Employment Exchange and his services were regularised on 23.09.2008. It is also not disputed that he had not been paid salary in the pay-band of 5335-90-6055-100-8255. According to the respondent, his salary should be paid at Rs.7,379/- per month and on the other hand, he was paid only a sum of Rs.4,654/- per month for the period from 23.09.2008 to 20.05.2009. Therefore, the respondent raised a claim before the Labour Court under Section 33 (C) (2) of the Industrial Disputes Act. The Writ petitioner had not adduced any records to show that there was a settlement between the Management and the employees union where the respondent is one of the members. A copy of the settlement has not placed even before this Court. Apart from this, there is absolutely no documentary evidence to show that the service of the drivers were regularised on condition that they would be paid all



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benefits from June 2009.

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6. In the circumstances, the orders passed by the Labour Court in C.P.No.77/2016 dated 09.08.2018 is perfectly in order and there is no reason for this Court to interfere with the same. It is represented by the learned counsel for the petitioner that the petitioner/Management has already deposited a sum of Rs.50,339/- by way of Demand Draft to the credit of C.P.No.77/2016. The respondent can withdraw the same in accordance with law.

7. With the above observation, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-Speaking order
vum

R. HEMALATHA, J.



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