



W.P. No.23971 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.09.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.23971 of 2018

and W.M.P.No.27917 of 2018, 26271 of 2023

The General Manager,
Tamil Nadu State Transport Corporation Coimbatore Limited,
Erode Region, Chennimalai Road,
Erode – 1.

... Petitioner

-VS-

P.Boopathyraj Kumar

... Respondent

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari calling for the records relating to the Order dated 21.03.2018 passed by the Labour Court, Salem in C.P.No.46 of 2014 and to quash the same.

For Petitioner	: Mr.Murali Vinoth
For Respondent	: Mr.G.Thalai Mutharasu

ORDER

The writ petition has been filed seeking to quash the Order dated 21.03.2018 passed by the Labour Court, Salem in C.P.No.46 of 2014.

2. The case of the petitioner is that the respondent was working with the petitioner as conductor and he was dismissed from service by an order dated



W.P. No.23971 of 2018

25.02.1999, for which, he raised an industrial dispute in ID No.153/2001 before

the Labour Court, Salem, which was allowed in his favour and he was directed to be reinstated with back wages. Challenging the said order, the petitioner herein has filed a writ petition in WP.No.3581/2004 before this Court, which was dismissed by an order dated 01.11.2012 on the ground that the Management had already reinstated the respondent in service by an order dated 05.05.2005 and that he has not given any cause for further grievance. Earlier, the respondent had also obtained an order dated 09.03.2006 in WMP.No.40481 of 2005 directing the payment of appropriate current wages. Thereafter, the respondent has filed computation petition No.46/2014 seeking a sum of Rs.14,69,812/- as arrears of wages with 24% interest before the second respondent. The second respondent, without considering the evidence on record, passed the impugned order dated 21.03.2018 directed the petitioner to pay a sum of Rs.14,69,812/- to the first respondent with 9% interest. Challenging the said order, the petitioner has filed the present writ petition before this Court.

3. The learned counsel for the petitioner submitted that admittedly the respondent workman challenged the dismissal order before the Labour Court, the Labour Officer has passed an award in his favour by directing the petitioner



W.P. No.23971 of 2018

Management to reinstate him into service without any back wages. Challenging

the said order, the petitioner Management filed a writ petition before this Court, which was dismissed on 01.11.2012 by confirming the award passed by the Labour Court. To comply with the said award, the respondent was reinstated the respondent into service. However, after lapse of nine years, the respondent/workman filed a claim petition before the Labour Court under Section 33(2) of the ID Act claiming back wages from 01.04.2003 till 31.07.2014 without any basis. The Labour Court, also without considering the fact, mechanically passed award in favour of the respondent, which is not sustainable one and therefore, the learned counsel prays to remand the matter back to the authorities for fresh consideration.

4. Per contra, the learned counsel for the respondent submitted that admittedly the respondent was dismissed from service on 25.02.1999. Aggrieved by the same, he raised dispute before the Labour Court. The Labour Court passed award by directing the petitioner Management for reinstatement without any backwages. Against which, the petitioner filed writ petition. During pendency of the writ petition, the respondent was reinstated from service on 17.05.2005. The respondent is entitled for backwages from 01.04.2003 till 31.07.2014. Thereby, the first respondent filed a calculation



W.P. No.23971 of 2018

memo along with computation petition claiming back wages. After considering the evidence and materials, the Labour Officer passed an award in favour of the first respondent, which cannot be interfered with.

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

6. The facts of the case are not in dispute. Admittedly, the petitioner had entered into service in the year 1989 and he was dismissed from service on 25.02.1999. As against the order of dismissal, the first respondent raised an industrial dispute before the Labour Court and the same was ended in his favour and the same was challenged by the Management before this Court by way of filing a writ petition and the same was dismissed. During pendency of the writ petition, the workman was reinstated into service as per the order of Labour Court. However, after lapse of nine years, the first respondent has filed a computation petition before the Labour Court claiming monetary benefits and the same was allowed by the Labour Court.

7. This Court perused the original records with regard to the case. On perusal of the same, it is seen that on the earlier occasion, the Labour Court



W.P. No.23971 of 2018

passed an award by directing the management to reinstate the workman into service without any back wages. The management has also complied with the said order of the Labour Court. As ordered by the order of the Labour Court, the petitioner is not entitled for backwages from 1999 to 31.08.2003. Whereas the respondent claimed that he is entitled for back wages from 01.04.2003 till 31.07.2014. However, for the above said prayer, this Court did not award any back wages while dismissing the writ petition which was filed by the petitioner management. Further, without any calculation, the Labour Court passed an award by directing the petitioner Management to pay a sum of Rs.14,69,812/- to the workman. The workman has also not filed any calculation memo, he filed a petition along with rough calculation sheet. Based on which, the Labour Court passed the award in favour of the workman, which is not sustainable one and the same is liable to be set aside.

8. Accordingly, this Court remands the matter back to the Labour Court, Salem for fresh consideration. The respondent/workman is directed to file a calculation memo before the Labour Court along with a copy of this order. The Labour Court shall decide the issue, on merits, after providing opportunity to either side, within a period of three months from the date of receipt of a copy of this order.



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W.P. No.23971 of 2018

M.DHANDAPANI, J.

Rli

9. With the above observation, the writ petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

14.09.2023

Rli

Index: Yes/No

NCS : Yes/No

To

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