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W.P.No.4144 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.4144 of 2016
and W.M.P.No.3473 of 2016

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai – 600 002.
Petitioner

...

Vs.

1.S.K.Kamaludden

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

3.K.Ayesha

... Respondents

[R3 – substituted as LR of deceased first respondent
vide order dated 03.07.2023 in W.M.P.No.9780 of 2023]

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 I.D.No.171 of 2012 dated 25.08.2015 on the file of the 2nd respondent and quash the same.



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For Petitioner : Mr.M.Chidambaram

For Respondents : Labour Court [R2]
No appearance [R3]

ORDER

This Writ Petition has been filed by the petitioner, challenging the Award dated 25.08.2015 passed by the Labour Court in I.D.No.171 of 2012, wherein, while setting aside the termination order inflicted against the first respondent herein, the Labour Court granted pension as per G.O.Ms.No.42 dated 27.05.2006, but denied the back wages and other attendant benefits.

2. It appears that the first respondent, during his life time, while working as a Conductor in petitioner Transport Corporation, committed irregularities in issuing the tickets. In this regard, a domestic enquiry was conducted and later, by proceedings dated 02.03.1982, he was terminated from service. However, after a lapse of nearly 30 years, he raised an industrial dispute in I.D.No.171 of 2012 before the second respondent, which was adjudicated by the first respondent, by setting aside the termination order and granting pension as per G.O.Ms.No.42 dated 27.05.2006. Aggrieved by the same, the petitioner/Corporation has come forward with the present Writ Petition.



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WEB COP 3. The learned counsel appearing for the petitioner/Corporation would submit that, the first respondent had raised the dispute after lapse of 30 years and the Labour Court has erroneously held that he was entitled to pension as per G.O.Ms.No.42 dated 27.05.2006 ignoring the cut off date fixed as 31.03.1982, to the effect that the employees who retired from service on 31.03.1982 or after alone are eligible to get pension, whereas, the first respondent was terminated from service on 15.01.1982. Hence, the said G.O. is not applicable to the present case and hence, the learned counsel would urge this Court to set aside the award passed by the Labour Court.

4. During the pendency of this writ petition, the first respondent passed away and his legal heir was impleaded as third respondent in this writ petition. However, the impleaded third respondent not appeared before this Court, thereby, this Court directed the learned counsel petitioner to effect paper publication, pursuant to which, paper publication was effected. Though the paper publication was effected and the name of the third respondent was printed in the cause list, no one appeared on behalf of the third respondent. Considering the pendency of the writ petition, this Court is inclined to dispose of this writ petition based on the available records.



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5. The issue involved in the Writ Petition is very limited to the extent as to whether the first respondent was entitled to get pension in the light of G.O.Ms.No.42 dated 27.05.2006 ?

6. Even though there was considerable delay and laches on the part of the first respondent, the Labour Court has entertained the same and granted the relief, but by the time, since the first respondent had already retired from service, while declining back wages and other attendant benefits, the Labour Court has held that he was entitled to pension as per G.O.Ms.No.42 dated 27.05.2006. However, on a careful perusal of the said G.O., it is revealed that the erstwhile Transport employees who retired from service on or after 31.03.1982 are entitled to get pension. It is not in dispute that the first respondent was terminated from service on 02.03.1982 by the petitioner Corporation. It is pertinent to note that, as against the order of termination, the first respondent had not preferred any appeal nor raised any industrial dispute. However, after a lapse of nearly 30 years, the first respondent raised industrial dispute, which, in the opinion of this Court, cannot be entertained on the ground of delay and laches. Further, since the first respondent was already terminated from service on 02.03.1982, the benefits of pension cannot be extended to him



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since the cut off date fixed in G.O.Ms.No.42, dated 27.05.2006 is 31.03.1982, to the effect that the employees of erstwhile Corporation who were absorbed in TN State Transport Corporation and retire before 01.01.1988 or after 01.01.1988 but before 01.09.1988, be paid pension if they had put in qualifying service of 10 years as on 01.04.1982. It is not in dispute that the first respondent was terminated from service on 02.03.1982, hence, this Court is of the view that the first respondent is not entitled to get pension.

7. Accordingly, this Writ Petition is allowed and the Award, dated 25.08.2017 passed by the second respondent Labour Court is hereby set aside. No costs. Consequently, the connected miscellaneous petition is closed.

07.08.2023

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

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



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M.DHANDAPANI, J.

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