



WEB COPY



W.P.No.1682 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.1682 of 2018
and W.M.P.Nos.2085 of 2018

The Management,
Tamil Nadu State Transport Corporation
(Covai-Divison-1) Limited,
37, Mettupalayam Road,
Coimbatore – 641 043.

... Petitioner

Vs.

1.Thiru.M. Nagarajan

2.The Presiding Officer,
Labour Court, Coimbatore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the order passed by the 2nd respondent Labour Court, in ID.No.265 of 2006 dated 30.06.2017 and to quash the same as illegal.

For Petitioner : Mr.A. Sundaravadhanam

For Respondents : R1 - Notice served, no appearance
R2 - Court



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ORDER

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The first respondent herein, while serving as a Conductor in the petitioner/Corporation, was levelled with certain charges through a Charge Memo dated 12.03.2003, based on which, an inquiry came to be conducted. On the strength of the proven charges, he was imposed with a punishment of dismissal from service on 14.03.2005. Challenging the order of punishment, the first respondent had raised a dispute before the Labour Court in I.D.No.265 of 2006. The Labour Court, through its preliminary award dated 30.06.2017, had held that the domestic inquiry was conducted in a fair and proper manner. Pursuant to the preliminary award, an inquiry under Section 11A of the Industrial Disputes Act, 1947, was conducted. The impugned final award dated 30.06.2017, is put under challenge in the present Writ Petition.

2. The learned counsel for the petitioner submitted that when the Labour Court had found the inquiry to be fair and proper, it ought to have discussed the materials available on record for the purpose of passing a final order and that when the dismissal order was not set aside, the first respondent would not be entitled for the terminal benefits.



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3. Though the first respondent has been served with a notice of the pendency of this Writ Petition and his name is also printed in the cause list, none appeared on his behalf.

4. The Labour Court, in its award dated 30.06.2017, had very curiously, recorded the submission of the workman that he had attained the age of superannuation and accordingly, had accepted his submission for payment of compensation along with terminal benefits. There is absolutely no discussion, as to whether the order of dismissal was legal or whether it requires to be set aside or how the first respondent would be entitled for compensation? Whether such compensation was in lieu of an award for reinstatement? Without adhering to any such discussion, had simply placed reliance on the fact that the first respondent had reached the age of superannuation and awarded compensation together with terminal benefits.

5. This Court does not appreciate the manner in which the Labour had dealt with the dispute. Apparently, the award itself is patently illegal, when it has ordered for the compensation together with the terminal benefits, without rendering a finding with regard to the validity of the dismissal order.



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6. In this background, the award dated 30.06.2017 passed by the Labour Court, is hereby quashed and the matter is remitted back to the Labour Court for passing of a fresh award. The Labour Court shall take into consideration that the preliminary award dated 21.03.2017, has not been challenged by the workman before this Court and shall pass final award under Section 11A of the Industrial Disputes Act, 1947, based on the materials available on record, after affording opportunity to the petitioner/Management, as well as the second respondent, within a period of three (3) months from the date of receipt of a copy of this order.

7. With the above directions, the Writ Petition stands partly allowed.

No costs. Connected miscellaneous petition is closed.

08.03.2023

Speaking/Non-speaking Order

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

The Presiding Officer,
Labour Court,
Coimbatore.



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M.S.RAMESH, J.

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