



W.P.No.22576 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	18.04.2023
Pronounced on	28.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.22576 of 2019
and
W.M.P.Nos.22009 & 29707 of 2019

The Management,
Metropolitan Transport Corporation
[Chennai] Ltd.,
Pallavan Salai, Chennai – 600 002.

...Petitioner

Vs.

M.Veerasamy

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorari, calling for the records pertaining to the order passed in C.P.No.485 of 2013 dated 26.02.2019 on the file of the III Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.Ramanlal
Additional Advocate General
Assisted by Mr.M.Chidambaram

For Respondent : Mr.N.Vanaraj

Mr.Haroon Al Rasheed &
Mr.S.T.Varadarajuli - Amicus Curiae



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WEB COPY

ORDER

With the consent of both the parties, this Writ Petition is taken up for final disposal.

2. When the respondent herein had challenged his order of dismissal dated 24.02.1995, by raising an Industrial Dispute in I.D.No.54 of 1999, the Labour Court, Chennai had passed an award on 10.11.2006, ordering for his reinstatement, together with 50% back wages and all other attendant benefits. The award came to be challenged by both the petitioner, as well as the respondent herein, in W.P.Nos.10321 of 2009 and 7998 of 2010 respectively. Both the Writ Petitions came to be dismissed by this Court and the award of the Labour Court was confirmed. The present order impugned in this Writ Petition is an order passed by the III Additional Labour Court, Chennai, in the respondent's Claim Petition No.485 of 2013, dated 26.02.2019, whereby, the Labour Court had computed the respondent's monetary benefits.

3. The learned Additional Advocate General appearing on behalf of the petitioner Corporation submitted that the respondent would not be entitled for



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50% of the back wages, since the principle of "No Work No Pay" would apply from the date of his dismissal till the date of his superannuation. The learned Additional Advocate General also raised a ground stating that the workman will not be entitled for increment, since he was out of employment from the date of dismissal.

4. The grounds raised by the learned Additional Advocate General are untenable. When the Labour Court had awarded for reinstatement, together with 50% back wages, together with continuity of service and all other attendant benefits, such an award of back wages was confirmed by this Court in its orders passed in W.P.Nos.10321 of 2009 and 7998 of 2010. The orders passed in these Writ Petitions have become final.

5. The present impugned award is an order passed under Section 33C(2) of Industrial Disputes Act, 1947. When this Court had already confirmed the award of the Labour Court, it is not now open to the petitioner Corporation to raise a plea, which has been confirmed by the High Court. Further, the Claim Petition itself is in the form of an execution proceeding, where the monetary benefits arising out of the award have been computed



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and therefore, the petitioner cannot raise grounds, which ought to have been raised in the earlier Writ Petition challenging the award.

6. Insofar as the claim of the petitioner that the respondent would not be entitled for increment is concerned, it is seen that the Labour Court, while ordering for reinstatement, together with 50% back wages, had also extended continuity of service and all other attendant benefits to the respondent. This award has been confirmed by the High Court in the aforesaid Writ Petitions. When continuity of service and all other attendant benefits have been extended to the respondent, he would be automatically entitled for the award of increment, as well as all other monetary benefits, arising out of such continuity of service.

7. In the result, there are no merits in the present Writ Petition and accordingly, the Writ Petition stands dismissed. In view of dismissal of the Writ Petition, the petitioner Corporation shall pass appropriate orders, revising the respondent's pensionary benefits, by ordering for payment of 50% back wages and all other attendant benefits, together with continuity of service, within a period of four weeks from the date of receipt of a copy of



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this order. No costs. Consequently, connected miscellaneous petitions are closed.

28 .04.2023

Index:Yes
Neutral Citation:Yes
Speaking order
hvk

To

- 1.The III Additional Labour Court,
Chennai.
- 2.The Management,
Metropolitan Transport Corporation
[Chennai] Ltd.,
Pallavan Salai, Chennai – 600 002.



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M.S.RAMESH,J.

hvk

PRE-DELIVERY ORDER MADE IN

W.P.No.22576 of 2019

28.04.2023