



W.P.No.58 and 64 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P.No.58 and 64 of 2017

and

W.M.P. No.65 and 79 of 2017

The Management
Metropolitan Transport corporation
(Chennai) Ltd.
Pallavan Salai
Chennai-600 002.

... Petitioner in both the petitions

-VS-

1. The Presiding Officer
I Additional Labour Court
City Civil Court Annexure Buildings
High Court Compound
Chennai-600104.

2. The General Secretary
Government Transport
Employees Union (CITU)
No.2, Pallavan Salai
Chennai – 600002.

... Respondents in both the petitions

Common Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records pertaining to the order passed in I.D.Nos.299 and 300 of 2011 dated 18.03.2016 on the file of the first respondent herein and quash the same.



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(for both the petitions)

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For Petitioner : Mr.M.Chidambaram

For Respondents : Mr.S.T.Varadharajulu (R2)

COMMON ORDER

These petitions have been filed seeking to quash the order passed in I.D.Nos.299 and 300 of 2011 dated 18.03.2016 on the file of the first respondent herein.

2. It is the case of the petitioner that in the month of November 2001, there was a Trade Union Strike was held in the Transport Corporation, Chennai. Thereafter, one Venkata Krishna Rao (hereinafter referred to as "the Workman"), who was working with the petitioner and member of the second respondent, was unauthorizedly absent to the duty nearly 247 days between 26.11.2011 to 30.07.2002. During the strike, the said workman was arrested and FIR was registered. Later on 21.05.2007 there was a settlement arrived at between the union and the Management that the police cases were dropped and 17 days strike period was treated as duty period and the remaining period to be treated as leave period. Whereas, the second respondent Union has challenged the said letter and claimed that the strike period have to be treated as duty period. The petitioner has objected the same, for which, the Union raised an



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industrial disputes before the Labour Court. The Labour Court allowed the petition in ID No.299 and 300 of 2011 on 18.03.2016 directed the petitioner to treat the entire period of suspensions from 26.11.2001 to 20.05.2002 and work period and pay full wages to the above said workmen excluding the subsistence allowance. Aggrieved over the same, the petitioner Management has filed both the writ petitions.

3. The learned counsel for the petitioner submitted that it is true that the workman, who is the member of the second respondent Union, participated in the illegal strike and thereafter, he was unauthorizedly absent from 26.11.2001 to 30.07.2002 viz., 247 days. Subsequently, there was a circular was issued on 21.05.2007 stating that the police cases against the workmen were dropped and 17 days strike period was treated as duty period and the remaining period to be treated as leave period. In the present case, the said workman was not coming under the said clause, he was unauthorizedly absent for 247 days. Thereby, his absence was treated as leave period and the same was set aside by the Labour Court which is unsustainable one and the award was passed by the Labour Court is contrary to the policy decision taken by the petitioner Management.



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4. The learned counsel for the second respondent submitted that though the workman initially suspended for participating in the strike, hence, he was absent for the above said period. A decision taken by the respondent to treat the entire period of suspension as leave period is a violation of the Standing Orders and therefore, the Labour Court has rightly assessed the matter and allowed in favour of the workman, which need not be any interference.

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the said workman participated in the strike in the year 2001. It is the grievance of the petitioner that a strike was held for 34 days and the workman was unauthorizedly absent from 26.11.2001 to 30.07.2002. Whereas the individual claims that he was placed under suspension by the petitioner.

7. As per 12(3) circular issued by the petitioner Management, 17 days are treated as working day and the remaining 17 days are treated as leave period.

Applying the said circular, the Labour Court has passed an award in favour of



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the workman. According to the petitioner, the Labour Court has not elaborately discussed the issue.

8. This Court perused the records which was filed by the second respondent, in which, the suspension order issued against the workman was not marked before the Labour Court by the petitioner as well as the second respondent. In the absence of the suspension order, the Labour Court framed the issue as if the workman was suspended by the petitioner for the aforesaid period and allowed the petitions in favour of the workman, which is unsustainable one.

9. In such view of the matter, this Court has no hesitation to set aside the orders passed by Labour Court in ID.No.299 and 300 of 2011 dated 18.03.2016 and this Court remands the matters back to the authorities for fresh consideration. However, liberty is granted to the second respondent to mark the suspension order and other relevant documents before the Labour Court. The Labour Court is directed to consider the issue and pass appropriate orders, on merits, after providing opportunity to the petitioner as well as the second respondent.



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WEB COPY 10. With the above observation, the writ petitions are allowed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCS : Yes/No

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M.DHANDAPANI, J.

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