



W.A.No.1281 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.A.No.1281 of 2023

The Management
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
Kanchipuram Region
Kanchipuram 631 552.

.. Appellant

Vs.

1. E.Anbu
2. The Special Deputy Commissioner of Labour
D.M.S. Compound
Chennai.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 02.11.2021 made in W.M.P.No.22367 of 2021 in W.P.No.13792 of 2019.



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For the Appellant : Mr.S.Silambanan
Additional Advocate General
Assisted by
Mr.M.Aswin

For the Respondents : Mr.S.T.Varadarajalu
for Respondent-1

Mrs.R.Anitha
Special Government Pleader
for Respondent-2

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.S.Silambanan, learned Additional Advocate General, assisted by Mr.M.Aswin, learned counsel for the appellant, Mr.S.T.Varadarajalu, learned counsel for the first respondent and Mrs.R.Anitha, learned Special Government Pleader for the second respondent.

2. The appellant challenges the order passed by the learned Single Judge dated 02.11.2021 in W.M.P.No.23367 of 2021 in W.P.No.13792 of 2019.

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3. The order of dismissal was passed by the present appellant against the first respondent. The approval of the Labour Commissioner was sought under Section 33(2)(b) of the Industrial Disputes Act. The same was not granted. Against that, the writ petition was filed by the present appellant.

4. The learned Single Judge directed the appellant to pay the workman the last drawn wages provided under Section 17-B of the Act commencing from 12.09.2017, i.e. from the date of rejection order and continue to pay the same till the final decision of this Court in the writ petition.

5. Learned Additional Advocate General for the appellant submits that in fact, subsequently, on 23.05.2022, the parties arrived at a compromise and the order of dismissal was converted into compulsory retirement. The order of compulsory retirement would take effect from the date of dismissal. As such, no amount



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would be due and payable to the appellant, as directed by the learned Single Judge, under Section 17-B of the Act.

6. On the date the learned Single Judge has passed the order, the order of the Labour Commissioner rejecting the application of the present appellant for approval to the dismissal order, was in force. As such, the learned Single Judge did not commit any error while passing the order. It is only subsequently, on or about 23.05.2022, the parties arrived at a settlement. The writ petition is disposed of on 08.06.2022 and the appeal, thereafter, is filed on 08.11.2022. The appellant has paid the amount as directed under Section 17-B till the settlement has taken place between the parties. It would also not be appropriate to direct recovery. The first respondent was a Class 3 employee. It would also be inequitable to recover the amount from him. Moreover, the said payment was made under the orders of the Court and for the period the order of Labour Court rejecting approval was in force.

7. In the light of the above, the writ appeal stands disposed



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of. There will be no order as to costs. Consequently,
C.M.P.No.12831 of 2023 is closed.

(S.V.G., CJ.)

(P.D.A., J.)

22.09.2023

Index : Yes/No

Neutral Citation : Yes/No

kpl

To

The Special Deputy Commissioner of Labour
D.M.S. Compound
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P.D.AUDIKEVALU, J.

(kpl)

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