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W.P.(MD).No.3789 of 2017

THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.3789 of 2017
and
W.M.P.(MD).No.3007 of 2017**

1.Smt.J.Suriya Gandhi

2.J.Vimal Raj

3.J.Vidhya

4.N.Rajeswari

... Petitioners

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Represented by its Managing Director,
Kumbakonam.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned award dated 23.01.2014 in I.D.No.84 of 2007 passed by the first respondent, quash the same and consequently to direct the second respondent to pay the wages of the deceased employee S.Jeyabalan for the period from the date of dismissal i.e., 30.06.2003 to date of death i.e., 21.09.2014 and all other consequential and terminal benefits payable for his services to the petitioners and award cost.

For Petitioners : M/s.S.P.Vijay Nivas

For R-1 : Labour Court

For R-2 : Mr.D.Sivaraman,
Standing Counsel.

ORDER

This Writ Petition is filed challenging the award dated 23.01.2014 in I.D.No.84/2007 passed by the first respondent with a consequential relief to pay the wages of the deceased employee to the legal heirs.

2. This Writ Petition is filed by the legal heirs of the deceased employee namely, N.Jeyabalan who joined the respondent Corporation as Conductor from 14.03.1994. The charge against the deceased employee is misappropriation.



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The deceased employee has issued tickets to 4 persons in Serial No.793 to 800 who travelled from Athivetti to Pichinikadu. But the said tickets were resold by the petitioner to the subsequent passengers who boarded Pichinikadu. The ticket examiners had seized the tickets and on verifying, it was found that the petitioner has got the tickets back from the passengers who travelled from Athivetti to Pichinikadu and thereafter reused the same tickets to the subsequent passengers who boarded in Pichinikadu, thereby, the petitioner received excess money without issuing fresh tickets. Likewise, the petitioner was in possession of 4 tickets worth of Rs.4.50/- each and 5 tickets worth of Rs. 5/- each. These tickets were already sold to the passengers but the deceased employees were in possession of the said tickets. Based on this report, the respondents have initiated domestic enquiry and dismissed the petitioner. The dismissal order is challenged before the Labour Court and the has perused the documents and has come to the conclusion that the punishment of dismissal from service is appropriate and therefore dismissed the appeal filed by the deceased employee. In the meanwhile, the employee died. Therefore, the legal heirs of the employee had filed this Writ Petition challenging the ID order and has sought the terminal benefits that is applicable to the deceased employee.



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WEB COP 3. The learned counsel appearing for the second respondent submitted that the deceased employee has suffered several punishments for the same misappropriation allegations. Two times for similar misconduct and totally 26 punishments were imposed against the deceased employee and hence prayed that the petitioner cannot seek any relief.

4. Even though this Court is sympathizing the legal heirs of the deceased employee, since it is the case of misappropriation that too the deceased employee has indulged in misappropriation following the same *modus operandi* for 3 times and suffered the punishment, this Court is not inclined to interfere with the punishment order. But the deceased employee is otherwise entitled to benefits like PF, leave salary etc. According to the learned counsel appearing for the petitioner, the said benefits are not paid because of the pendency of the Writ Petition. Therefore, the respondents are directed to pay the applicable statutory benefits within a period of eight (8) weeks along with the applicable rate of interest to the petitioners.



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5. In view of the above observation, this Writ Petition is dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

23.02.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
Nsr

To

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.The Managing Director,
The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Kumbakonam.



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S.SRIMATHY, J.

Nsr

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