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W.A.(MD)Nos.1636 to 1659 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)Nos.1636 to 1659 of 2023

and

C.M.P.(MD)Nos.12682, 12688, 12690 to 12693, 12695, 12696, 12702, 12704,
12705, 12707 to 12714, 12716, 12717, 12370, 12721 & 12723 of 2023

W.A.(MD)No.1636 of 2023

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd., Kattabomman Nagar,
Tirunelveli District.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd., Tirunelveli Region,
Vannarapettai, Tirunelveli.

... Appellants

Vs.

J.Antony Monohar Gnanasekar

...Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order dated 29.08.2023 passed in Review Petition (MD)No.75 of 2023 in W.P. (MD)No.23377 of 2016, dated 01.12.2016 on the file of this Court.



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For Appellants : Mr.Isaac Mohanlal, Senior Counsel
for Mr.R.Rajamohan
For Respondent : Mr.S.Govindan

COMMON JUDGMENT

(Judgment of the Court was delivered by *V.LAKSHMINARAYANAN, J.*)

This batch of Writ Appeals arise against the orders passed by the learned Single Judge, dismissing the petitions filed for review of the order of this Court passed in W.P.(MD)No.23377 of 2016 etc., batch dated 01.12.2016.

2.The writ petitioners are all workmen under the appellants. For the purpose of easy understanding the parties will be referred to as the management and the workmen.

3.The claim of the workmen is that the management had given increments to their juniors, which resulted in a pay anomaly and thereby, the workmen paid lesser salary than their juniors. In order to rectify the same, they presented the batch of Writ Petitions.



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4. When the matter was listed before the learned Single Judge on 01.12.2016 for admission, a statement was recorded that the Corporation has not disputed the submissions made in paragraph No.4, which are as follows:-

“4. According to the learned counsel for the petitioner, the petitioner being senior, is entitled to get more pay or equal pay with that of his juniors and the failure to consider this anomaly and the failure to rectify his pay construction between senior and juniors amounts to discrimination among similarly placed persons and the same is ex facie illegal and is against the principles laid down by the Honourable Apex Court.

5. The learned Standing Counsel for the respondent corporation has not disputed the said submission.”

Treating the statement as an admission of facts, the learned Single Judge allowed all the Writ Petitions at the admission stage itself.

5. Aggrieved by the same, a batch of Writ Appeals were preferred before this Court by the management in W.A.(MD)Nos.1217 to 1240 of 2017. This Court on 20.09.2017 recorded in its order that the facts had not been gone into by the learned Single Judge at the time of passing of the order and permitted the



management to move an application for review. In other words, the finding of the Division Bench of this Court on the previous occasion was that the Court had passed an order against the management and in favour of the workmen without dealing into the merits of each of the cases. Taking advantage of the order passed by this Court, the review applications were presented before the learned Single Judge.

6.The learned Single Judge dismissed the review applications on the ground that the facts though were available before the Court at the time of passing of the order on 01.12.2016, since they were not placed before the Court, it does not within the scope of the Order XLVII Rule 1 of Civil Procedure Code. Aggrieved by the said dismissals, the present Writ Appeals have been filed.

7.We have heard Mr.Isaac Mohanlal, learned Senior Counsel for Mr.R.Rajamohan, learned counsel appearing for the management and Mr.S.Govindan, learned counsel appearing for the workman in W.A.(MD)No.1636 of 2023.



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8.A careful perusal of the order dated 01.12.2016 shows that the order was passed in the admission stage itself without even receipt of counter on the facts that had been placed before the Court by the workmen. When this aspect was brought before this Court by way of Writ Appeal, liberty was granted to the management to move an application for review. But dismissal the review on the ground that these facts were not placed before the Court at the time of admission begs the question.

9.At the time of admission, the learned counsel for the management would at best take notice on behalf of the management in order to complete the service and he would not come with all the facts in order to dispose of the case at that stage itself. Unless and until the facts are admitted in whole hog to treat the statement in para No.5 as an admission might not be correct.

10.The learned Senior Counsel for the management disputes the facts that have been placed by the learned counsel for the workman and entitlement of the writ petitioners to make claim on the parity of the salary. Pleas of stepping up and the circumstances in which increments have been granted to the juniors but



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denied to the seniors, we feel that these aspects, require counter affidavit in each of the Writ Petitions. Therefore, these facts having not placed before the learned Single Judge at the time of admission is itself a ground for review.

11.In the light of the above, we find an error apparent on the face of the record. Therefore, these Writ Appeals stand allowed. The review is granted and the order dated 29.08.2023 passed in the review applications is set aside. The Writ Petitions stand restored to the file of this Court.

12.At this stage, the learned Senior Counsel appearing for the management undertakes to complete the pleadings in the Writ Petition within a period of three weeks. We request to the learned Single Judge to take up the matter and dispose of it as earliest as possible, as the issues are pending for more than 7 years. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

22.11.2023

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