



WEB COPY



W.P. No.13143 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2024

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.13143 of 2011
and W.M.P. Nos.1 to 4 of 2011 and 24665 of 2017

1. Metropolitan Transport Corporation (Chennai) Limited
represented by its Managing Director (Administration)

2. General Manager (Administration),
Metropolitan Transport Corporation (Chennai) Limited
...Petitioners

Vs.

1. N. Subramaniam
2. The Presiding Officer
I Additional Labour Court, Chennai Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India,
praying to issue a Writ of Certiorari, calling for the records pertaining to the
award dated 28.10.2010 made in I.D. No.236 of 2008 on the file of the 2nd
respondent and to quash the same.

For Petitioners : Mr. C. Gauthamaraj [for R1 & R2]
Standing Counsel.

For Respondent : No appearance [for R1]
R2 - Court.

ORDER

This Writ petition has been filed challenging the order passed in I.D.



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No.236 of 2008 dated 28.10.2010 on the file of the 2nd respondent and to quash the same.

2. According to the petitioner, the 1st respondent was appointed as driver on 31.07.1992 in the petitioners' transport corporation. While so, when the 1st respondent was working at Ambattur Depot, he absented himself without prior permission from 21.12.2004. The report was forwarded by the Branch Manager, Ambattur depot to the Disciplinary Authority by reporting the unauthorized absence of the 1st respondent. Thereafter, a charge memo was issued to the 1st respondent on 08.04.2005. Thereafter, a domestic enquiry was conducted and after completion of the domestic enquiry and after compliance of the statutory requirements, the disciplinary authority has passed an order and the 1st respondent was removed from service. Thereafter, the 1st respondent preferred an appeal before the Appellate authority and the same was rejected. Further, the 1st respondent filed a Writ petition before this Court in W.P. No.33156 of 2007 and the same was dismissed with direction to the 1st respondent to approach the Labour Court through an order dated 22.10.2007. Thereafter, the 1st respondent has raised an industrial dispute in I.D. No.236 of 2008 before the I Additional Labour Court, Chennai and the Labour Court allowed the industrial dispute and passed an order to reinstate the 1st respondent with backwages, continuity of service with all other



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attendant benefits. Now, the present Writ petition has been filed challenging the said award passed by the Labour Court.

3. The learned counsel appearing for the petitioner would submit that the 1st respondent was appointed as Driver and thereafter without any information and prior sanction of leave, he was absent in his duty from 21.12.2004. Therefore, a charge memo was issued and domestic enquiry was conducted and thereafter, he was removed from service. Challenging the said order, he filed a Writ petition in W.P. No.33156 of 2007 and the same was dismissed by directing the 1st respondent to approach the Labour court and thereafter, he raised an industrial dispute in I.D. No.236 of 2008 before the I Additional Labour Court, Chennai. Before the Labour Court, on the side of the 1st respondent, he was examined as WW1 and marked Ex.W1. to Ex.W.9 and on the side of Management MW1 was examined and Ex.M.1 to Ex.M.13 were marked. The Labour Court without considering the evidence of the Management, erroneously allowed the industrial dispute and directed the petitioner management to reinstate the 1st respondent in service with continuity of service with backwages and all other attendant benefits. The Labour Court failed to note that the 1st respondent violated the standing orders 25(vi) and 25(XLiii) and enquiry was conducted after giving sufficient opportunities to the 1st respondent and the 1st respondent was an habitual



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absentee. The 1st respondent has not produced any documents for his ailment.

Moreover, he did not return to his work from 21.12.2004. Therefore, the order passed by the labour Court directing the management to reinstate the 1st respondent into service with backwages, continuity of service and all other attendant benefits is against law and the same is liable to be quashed.

4. No representation for the 1st respondent. The respondent died on 01.06.2012. But the petitioners management has not taken any steps to implead the legal heirs of the 1st respondent. Already, the legal heirs of the 1st respondent have filed a Writ petition in W.P No.31964 of 2013 and the said petition was tagged along with this petition. However, the petitioners in this petition i.e., Transport Corporation Management has not taken any steps to implead the legal heirs of the deceased 1st respondent for the past 12 years. Therefore, without going into the merits of the case, due to the non-taking of steps as against the deceased 1st respondent, this Writ petition is dismissed as 'abated'.

5. Accordingly, the Writ petition is dismissed as 'abated'. Since the case is pending from 2011 and already the 1st respondent died, the Management is directed to disburse the terminal benefits in terms of the order passed by the Labour Court. No costs. Consequently, the connected



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miscellaneous petitions are closed.

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Index : Yes/No

Speaking order/non-speaking order

mjs

To

The Presiding Officer

I Additional Labour Court, Chennai

P.DHANABAL, J.,

mjs



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