



W.P.No.1974 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.1974 of 2023 and
W.M.P.Nos.2052, 34259 & 12520 of 2023

The Management,
Tamil Nadu Government Transport Corporation (CBE) Ltd.,
37, Mettupalayam Road,
Coimbatore 641 043.

... Petitioner

Vs.

R.Krishnan

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in C.P.No.58 of 2019 on the file of the Additional Labour Court, Coimbatore dated 20.11.2021 and quash the same.

For Petitioner : Mr.A.Sundara Vadhanan
For Respondent : Mr.K.M.Ramesh, Senior Counsel for
Mr.V.Subramani

ORDER

This Writ Petition has been filed to issue a Writ of Certiorari, to call for the records in C.P.No.58 of 2019 on the file of the Additional Labour Court, Coimbatore dated 20.11.2021 and quash the same.



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2. Heard Mr.A.Sundara Vadhanan, learned counsel for the petitioner and Mr.K.M.Ramesh, learned Senior Counsel for the respondent and perused the materials available on record.

3. In pursuant to the award dated 20.11.2021, the amount payable to the respondent has been computed at Rs.4,30,743.36/-. On perusal of the computation petition made by the respondent, it is seen that he has made out his claim by calculating the salary to be payable for 1126 days along with 10% interest.

4. The learned counsel for the petitioner Management submitted that the amount so computed by the Labour Court is not the amount payable to the respondent and the Labour Court had omitted to consider the punishments for which an Industrial Dispute has been raised in I.D.No.240 of 2005 and I.D.No.142 of 2005. The respondent has been imposed with several other punishments also which he did not challenge so far. Admittedly, the computation petition filed by the respondent has



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got figures of the claim relating to the period prior to the filing of the industrial dispute. So it is claimed by the petitioner that without any pre-existing right, the computation petition has been directly filed and it is illegal.

5. Per contra, the learned Senior Counsel for the respondent submitted that the salary is an already accrued right and hence, the respondent need not to file any industrial dispute to get it awarded.

6. Even the petitioner did not dispute the fact that the respondent is entitled to the salary, but his only contention is that the salary has already been paid by the petitioner and for the period which is not covered in the industrial dispute, the computation petition has been filed and the same was also allowed. While passing the order, the learned Labour Judge did not make any distinction between the claim made in pursuant to the earlier awards passed in the industrial dispute and a fresh claim made in the computation petition basing upon his right to accrue salary. So, on the face of it, it is seen that the Labour Court has dealt the period which did



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not form a part of the dispute.

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7. Had the petitioner admitted that the respondent's salary pertaining to the period prior to the award is payable to him, but the quantum alone makes the difference, it would be possible to come to the conclusion that there is no issue with regard to the right involved to get determined. But the very contention of the petitioner Management is that the respondent has been paid the salary for all those period for which he is entitled for salary and there is nothing remains to be paid to him.

8. The Labour Judge did not segregate the two different segments in which the respondent makes his claim. One is, on the ground that he has already accrued right in respect of his claim for salary. Another is, his entitlement for monetary benefits in terms of the award passed in his favour. As the respondent makes a claim pertaining to a particular period and the petitioner denies the same by stating that the claim has already been settled, then, there arises a dispute. A dispute is not in respect of the right in respect of the accrued salary. But it is about the claim for having been paid it already.



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9. With regard to the other punishments, admittedly there is no industrial dispute raised and hence, there would not have been an occasion to deal with the same. So the rest of the punishments which the respondent did not challenge is presumed to have been accepted by him. But the fact as to whether the punishment has already been enforced or not is a matter pertaining to the entitlement dues claimed by the respondent.

10. There is an obvious necessity to segregate both the elements of the claim, one on the basis of the award passed in the industrial dispute and the another based upon his claim for accrued salary. Since the above exercise was not done by the Labour Judge, I feel it is appropriate to remit the matter back to the file of the Labour Court in order to reconsider by segregating the claim under two heads as stated above and pass orders as expeditiously as possible by rendering a finding as to whether there is a pre-existing right available for the respondent to claim



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both the computation.

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11. This Writ Petition is disposed on this limited aspect. It is needless to state that while dealing with the claim petition in that fashion, the Labour Court should give an opportunity to the petitioner also to file his counter and calculation statement by the respondent, if any. The disbursal of the amount already deposited by the petitioner in pursuant to the order of the Court, will depend upon the final award passed afresh in pursuant to the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No

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Speaking / Non-speaking

Neutral Citation : Yes / No

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To

The Additional Labour Court,
Coimbatore.



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R.N.MANJULA, J.

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