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W.P.No.9242 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.07.2024

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**W.P.No.9242 of 2010**

**and**

**W.M.P.No.30572 of 2016**

The Management of  
Metropolitan Transport Corporation  
(Chennai) Ltd.,  
Pallavan House, Anna Salai,  
Chennai-600 002.

... Petitioner

**Vs.**

1.The Presiding Officer,  
1st Additional Labour Court,  
Chennai.

2.Shri.B.Natarajan

...Respondents

**Prayer:-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari calling for the records concerning with the C.P.No.387 of 2004 dated 07.09.2004 on the file of the 1st Additional Labour Court, Chennai and quash the same.

For Petitioner : M/s.M/s.T.Chandrasekaran

For Respondents : M/s.S.T.Varadarajulu [R2]

: M/s.V.Jeevagiridharan [R2]



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## **ORDER**

The petitioner Management has filed the above writ petition challenging the award passed by the I Additional Labour Court, Chennai in Claim Petition No.387 of 2004 in and by which the 1<sup>st</sup> respondent had directed the petitioner to pay a sum of Rs.2,21,501/- to the 2<sup>nd</sup> respondent.

2. The 2<sup>nd</sup> respondent had joined the services of the petitioner on 01.03.1985. On 31.08.2002 he was dismissed from services on the ground of unauthorized absence. Thereafter, on 09.01.2003 once again a dismissal order was passed on the very same ground and the petitioner had filed an Approval Petition No.31/2003 which was rejected on 12.01.2004. Thereafter, the 2<sup>nd</sup> respondent was reinstated on 14.04.2004. The petitioner had issued a third dismissal order on the very same ground on 06.05.2004 and A.P.No.183/2004 was filed to approve the dismissal. This was rejected on 11.08.2004 and on 30.08.2004, the 2<sup>nd</sup> respondent was once again reinstated.

3. Meanwhile, the 2<sup>nd</sup> respondent had filed C.P.No.387/2004 claiming back wages for non-employment period. The only defence



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pleaded by the petitioner was that despite offering employment, the 2<sup>nd</sup> respondent had not rejoined duty pursuant to the reinstatement order dated 14.04.2004.

4. Before the 1<sup>st</sup> respondent, Labour Court both side had not examined any witnesses. On the side of the workman, the 2<sup>nd</sup> respondent herein Ex.P.1 to P.9 were marked. However, on the side of the petitioner Management, no documents were marked.

5. Ultimately, the I Additional Labour Court, Chennai held that since there was no dismissal order, the petitioner is deemed to be in service and therefore eligible for back wages and allowed the claim petition directing the petitioner herein to pay a sum of Rs.2,21,501/- to the 2<sup>nd</sup> respondent. It is challenging this order that the petitioner is before this Court.

6. The learned counsel for the petitioner would submit that as per the petitioner's statement of account only a sum of Rs.1,50,000/- and odd was payable to the 2<sup>nd</sup> respondent. However, the petitioner has not chosen to let in any evidence whatsoever before the Labour



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Court to prove the same. The Labour Court had taken into account Ex.P.1, the salary certificate of the 2nd respondent and calculated the back wages based on this salary certificate.

7. Considering the fact that the petitioner has not filed any contra evidence, the petitioner cannot now challenge the order passed by the Labour Court which has been passed after considering the available evidence on record and that too after the Labour Court has come to the conclusion that in the absence of dismissal order, it is deemed that the 2<sup>nd</sup> respondent has been in service. Therefore, the order passed by the 1<sup>st</sup> respondent is very much in order and I see no reason to interfere with the same.

8. Accordingly, the Writ Petition stands dismissed. No costs.

**15.07.2024**

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No



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**P.T. ASHA. J.,**

(shr)

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**(1/3)**