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W.P.No.6116 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.09.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.6116 of 2023 and
W.M.P.No.6147 of 2023

Anjalam

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Salem, Salem - 636 007.

2.The Administrator,
Tamil Nadu State Transport Corporation,
Employees Pension Trust,
Pallavan Salai, Chennai 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the award passed in C.P.No.143 of 2018 dated 23.11.2022 passed by the Labour Court, Salem and quash the same and consequently, direct the respondents to settle the entire pensionary benefits with arrears with interest.

For Petitioner : Mr.V.Karthikeyan

For Respondents : Mr.K.Raja



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ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records of the award passed in C.P.No.143 of 2018 dated 23.11.2022 passed by the Labour Court, Salem and quash the same and consequently, direct the respondents to settle the entire pensionary benefits with arrears with interest.

2. Heard Mr.V.Karthikeyan, learned counsel for the petitioner, Mr.K.Raja, learned counsel for the respondents and perused the materials available on record.

3. In the order passed in C.P.No.143 of 2018, the Labour Court has observed that the claim regarding payment of gratuity has to be made before the appropriate authority and the petitioner has not chosen to implead the other claimants who is said to be the first wife of the deceased employee and the children born to the first wife, as parties to the proceedings.



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4. The learned counsel for the petitioner submitted that the petitioner is a legally wedded wife of the deceased employee and hence, she has got right to receive all the benefits including family pension.

5. On perusal of the impugned order, it is seen that the Labour Court has given a categorical finding that without determining about the entitlement of the petitioner with regard to the claim made before the Court, it is not possible to grant the relief as prayed for. It is needless to state that whenever computation petition is filed before the Labour Court, it has to be based upon the pre-existing right of the petitioner. In the instant case, the petitioner has not filed any proceedings before the appropriate forum in order to get declaration about her status as the legally wedded wife of the deceased employee and that she is only the legal heir who is entitled to receive all the terminal benefits including the family pension.

6. It is learnt that earlier, the petitioner has filed a Writ Petition in W.P.No.18228 of 2020 seeking direction against the District Collector



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and Tahsildar, Salem, to effect recovery as per the recovery certificates issued in this regard for gratuity. It appears that the order has preceded the order passed by the appropriate authority under the Payment of Gratuity Act in P.G.No.80 of 2016. So, it has got no relevance with the claim made by the petitioner that she is a legally wedded wife of the deceased employee.

7. The learned counsel for the petitioner invited the attention of this Court to the order of the Second Appeal and argued to adopt the observation made in the said order, as the rule of law adopted in the said case is applicable to the instant case.

8. It has been repeatedly advised by the Court that the Second Appeal arises out of the decree passed in the Original Suit, wherein, the rights of the parties have been decided and hence, it is applicable to the second appeal and that ruling cannot be made applicable for the matter in which a direction of this nature is sought by exercising the jurisdiction under Article 226 of the Constitution of India.



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9. It is seen that none of the proceedings states that the petitioner is the legally wedded wife of the deceased employee and hence, she is not entitled to receive family pension. As the claim of the petitioner involves lot of factual matters to be dealt and decided, the direction as sought by the petitioner in this Writ Petition cannot be granted. Or in other words, the petitioner has not got any order from the Court with regard to her status and entitlement. Hence, this Court is of the view that this Writ Petition is seen to be a pre-matured one and hence, liable to be dismissed.

10. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

gsk

To

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