



WEB COPY



W.P. No.30462 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2024

CORAM:

THE HON'BLE MS. JUSTICE R.N. MANJULA

W.P. No.30462 of 2024 and W.M.P. No.33102 of 2024

The Management of

Tamil Nadu State Transport Corporation (Coimbatore) Ltd.
No.37, Mettupalayam Road
Coimbatore

Petitioner

vs.

R.Mohanraj

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the records relating to the order dated 20.10.2023 made in C.P.No.312 of 2022 on the file of the Additional Labour Court, Coimbatore and quash the same.

For petitioner

Mr.T.Chandrasekaran

For respondent

Mr. V. Ajay Khose

ORDER

This writ petition impugns the order dated 20.10.2023 passed by the Additional Labour Court, Coimbatore (for brevity “the Labour Court”) in C.P.No.312 of 2022 filed by the respondent/workman.



W.P. No.30462 of 2022.

WEB COPY

2. Mr. Ajoy Khose, learned counsel, takes notice for the respondent/workman and with the consent of either side, this writ petition is taken up for final disposal at the admission stage itself.

3. The aforesaid computation petition was filed by the respondent/workman claiming subsistence allowance for the period from 24.02.2022 to 27.03.2022 and also uniform charges, stitching charges, footwear charges and cash bag allowance for the period 2016 to 2022.

4. The learned counsel for the petitioner Management submitted that the respondent/workman was suspended from 10.02.2022 to 23.02.2022 and thereafter, his suspension was revoked. It is his further submission that for the period under suspension, i.e., from 10.02.2022 to 23.02.2022, the respondent/workman was paid subsistence allowance and this fact was not properly appreciated by the Labour Court and even before determining the pre-existing right in terms of the claim made by the respondent/workman, the Labour Court has proceeded to pass the impugned order which is not correct.



W.P. No.30462 of 2022.

WEB COPY

5. There is no quarrel that the respondent/workman was suspended from service on certain allegations of misconduct on 10.02.2022. The Labour Court has also observed in the impugned order that the petitioner Management has made a plea stating that the respondent/workman's suspension has been temporarily revoked on 24.02.2022 and an order has been sent in this regard to the Branch Office and the respondent/workman was informed about the same through telephone, but, the respondent/workman has not chosen to report to duty. According to the petitioner Management, the respondent/workman continued to remain absent even though his suspension was revoked with effect from 24.02.2022, but, the Labour Court has made an observation that the respondent/workman came to know about the revocation of suspension only from the charge memo dated 19.03.2022 in which it was alleged that the respondent/workman had not reported to duty even after his suspension was revoked.

6. The above discussion made in the order of the Labour Court would only show that there are some disputable issues raised by the parties and the said issues require determination. While the petitioner Management claims that the suspension was revoked with effect from 24.02.2022 and that



it was intimated to the respondent/workman through the Branch Office, it is the stand of the respondent/workman that he came to know about the revocation of suspension only when he was issued with the charge memo for not choosing to join duty subsequent to the alleged revocation of suspension.

7. *Ergo*, the above contentions raised by the parties would show that the respondent/workman has got a pre-determination of his right to get subsistence allowance for the period between 24.02.2022 and 27.03.2022. In fact, disciplinary proceedings, if any, contemplated against the respondent/workman pursuant to the charge memo for the alleged absence would also involve the same issue. When the matter already forms part of an ensuing dispute or it requires a pre-determination, the Labour Court ought not to have computed the subsistence allowance for the period between 24.02.2022 and 27.03.2022. When a workman files a computation petition, it is obligatory on his part to establish that he has got a pre-existing right and that it has been determined already. Apparently, in the case on hand, such pre-determination has not been done and the entitlement/dis-entitlement of the respondent/workman for the specific period is very much the subject matter of the charge memo issued to the respondent/workman. Without giving an explanation to the charge memo and without participating in the



W.P. No.30462 of 2022.

disciplinary proceedings contemplated in this regard and getting a finding that he has not remained absent and his absence is only because he did not get intimation at the appropriate time, the respondent/workman should not have filed the computation petition prematurely.

8. As regards the various charges/allowances set out in paragraph no.3, *supra*, it is claimed by the learned counsel for the petitioner Management that the same were not granted to any other employee also owing to the pandemic caused by Corona virus. But, it is common knowledge that COVID-19 struck the country only during late March 2020 and not in March 2016, as claimed by the learned counsel for the petitioner Management.

9. However, the learned counsel for the petitioner/Management submitted that the aforesaid allowances were claimed only for the period between 2020 and 2022. But, the petitioner/Management has not substantiated the said claim.

10. In view of the foregoing discussion, the computation made by the Labour Court insofar as subsistence allowance for the period 24.02.2022



W.P. No.30462 of 2022.

to 27.03.2022 alone is quashed. The respondent/workman is at liberty to participate in the disciplinary proceedings, if any, initiated against him for the charge of unauthorised absence from 24.02.2022 to 27.03.2022.

In the result, this writ petition is allowed in part with the above observation. No costs. Connected W.M.P. stands closed.

17.10.2024

Index : Yes/No

Neutral Citation : Yes/No

cad



WEB COPY



W.P. No.30462 of 2024

R.N. MANJULA, J.

cad

W.P. No.30462 of 2024

17.10.2024