



WEB COPY

W.A.No.2190 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.2190 of 2022
and C.M.P.No.16338 of 2022

Tamil Nadu State Transport
Corporation (VPM) Ltd.,
Vellore Region,
Rep. by General Manager,
Vellore.

... Appellant

Vs.

1.The Joint Commissioner of Labour,
(Conciliation), DMS Compound,
Teynampet,
Chennai-600 006.

2.K.Natarajan

...Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent for issuance of a Writ of Certiorari Mandamus, to set aside the order dated 20.09.2021 made in W.P.No.34787 of 2006.



WEB COPY



W.A.No.2190 of 2022

For Appellant : Mr.T.Chandrasekaran
For Respondent : Mr.A.M.Ayyadurai
Government Advocate for R1
Mr.G.Saravanan for R2

JUDGEMENT

(Judgement of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order passed by a learned Single Judge of this Court dated 20.09.2021 made in W.P.No.34787 of 2006.

2. On charges of unauthorized absence, the Appellant / Transport Corporation had conducted an enquiry, and ultimately passed an order of punishment of dismissal on 03.01.2003. On 10.01.2003, the Transport Corporation had chosen to file an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, before the first respondent / Authority herein, which was rejected on 15.02.2005 on the ground that the Transport Corporation had not paid the one month wages on the date of dismissal, by following the principles laid down by the Hon'ble Supreme Court in the



W.A.No.2190 of 2022

case of ***Lalla Ram vs. Management of D.C.M. Chemical Works Ltd.,***

[AIR 1978 SC 1004]. While rejecting the appellant's application, the Authority had also taken into consideration that since the workman was on daily wage basis, he was entitled to receive the minimum wages for employment in Public Motor Transport at the rate of Rs.3081.72/-, whereas the Transport Corporation had paid only a sum of Rs.2,548/- as his one month wages. Aggrieved by the order of the first respondent / Authority, the Transport Corporation had filed a writ petition before this Court, and a learned Single Judge of this Court vide order dated 20.09.2021, had approved the findings of the Authority and upheld that since the one month wages was not paid as contemplated under Section 33(2)(b) of the Act, there was no infirmity in the order of the Authority and dismissed the petition.

3. Heard Mr.T.Chandrasekaran, learned counsel for the appellant / Transport Corporation, as well as Mr.A.M.Ayyadurai, learned Government Advocate for the first respondent / Authority and Mr.G.Saravanan, learned counsel for the second respondent / workman.



W.A.No.2190 of 2022

WEB COPY

4. The learned counsel for the Appellant / Transport Corporation would submit that the workman was on daily wage basis and by calculating his daily wages, they have rightly arrived at the monthly wages at Rs.2,548/-, which was paid to him at the time of passing of the punishment order.

5. We are unable to appreciate the contention made by the Transport Corporation. The monthly wage payable to an employee in Public Motor Transport cannot be below the minimum wages prescribed under a statute. Under Clause 11 in Part I of the Schedule to the Minimum Wages Act, 1948 (hereinafter referred to as 'the Act'), employment in Public Motor Transport is a scheduled employment within the meaning of Section 2 (g) of the Act. The Government, in exercise of its power under Section 5 of the Act, has specified the minimum wages payable to an employee in Public Motor Transport. Under Section 12 of the Act, an employer is mandated to pay every employee engaged in the scheduled employment wages at a rate not less than the minimum rate of wages fixed by the Government's notification for the scheduled employment, without any deductions, except as may be authorized.



W.A.No.2190 of 2022

WEB COPY

6. In view of the mandate under the Act and also taking into account that the second respondent herein had completed 480 days of continuous service as on the date of his dismissal, he would be entitled to receive the minimum wages prescribed under the Act. Thus, when the second respondent herein was paid only a sum of Rs.2,548/- as against the monthly minimum wage of Rs.3,081.72/-, it requires to be necessarily held that the one month wages paid to the second respondent, being less than the monthly minimum wage fixed as per the provisions of the Act, cannot be termed to be one month wage as provided for under Section 33(2)(b) of the Industrial Disputes Act, 1947.

7. In the light of the above findings, we do not find any infirmity in the order of the Authority, rejecting the Transport Corporation's application seeking for approval of the action taken by them as against the second respondent herein. The learned Single Judge had also approved the order of the Authority by holding that the full one month wage has not been paid to the second respondent, which finding we approve. Thus, there are no merits in the grounds raised in the present appeal.



WEB COPY



W.A.No.2190 of 2022

M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

Anu

8. Accordingly, this Writ Appeal stands dismissed. No Costs.

Consequently, connected miscellaneous petition is closed.

[M.S.R., J] [C.K., J]

09.09.2024

Index: Yes/No

Neutral Citation: Yes/No

Speaking Order / Non Speaking Order

Anu

To
The Joint Commissioner of Labour,
(Conciliation), DMS Compound,
Teynampet,
Chennai-600 006.

W.A.No.2190 of 2022
and C.M.P.No.16338 of 2022