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W.P.No.24885 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	08.12.2023
Pronounced on	19 /6/2024

C O R A M

The Hon'ble Dr.Justice D.NAGARJUN

Writ Petition Nos.24885 of 2014
and
M.P.No.1 of 2014

The Management,
Tamilnadu State Transport Corporate (Villupuram) Ltd.,
Cuddalre Division,
Rep., by its General Manager
Petitioner

...

Vs

1. The Presiding Officer,
Labour Court,
Cuddalore.

2. M.krishnaraj

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari to call for the records of the order passed by the 1st Respondent in C.P.No.10 of 2014 dated 21.07.2014 and to quash the same.

For petitioner

...

Mr.M.Aswin



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For respondents

...

Mr.R.Murakidharan for R2

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ORDER

W.P.No.24885 of 2014 is filed by the Tamil Nadu State Transport Corporation Limited against second respondent workmen/ Driver seeking to set aside the order passed by the first respondent in C.P.No.10 of 2011 dated 21.07.2014. C.P.No.10 of 2014 is filed before the first respondent Labour Court on account of allowing of the I.D.NO.25 of 2012.

2. Second respondent was working in the petitioner's corporation as a Reserve Driver. He joined the service in the year 2009. On 27.07.2011 at about 09.45 hours when he was driving a bus bearing Registration No.T.N.32.No.2950, he indulged in a road accident and hit a motor cyclist who died on the spot. Since then, the driver stopped reporting to the duty. The driver/workmen has raised Industrial Dispute in I.D.No.25 of 2012 seeking reinstatement with continuity of service and backwages before the first respondent Labour Court and the same was disposed of holding that there was violation of Section 25 F of the Industrial Dispute Act, thereby directed the petitioner corporation to reinstate the workmen/Driver with continuity of service and pay the backwages. Aggrieved by the same, Writ Petition.



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3. It is submitted by the learned counsel for the petitioner corporation that the respondent/workmen Driver was working only as a Reserve Driver. He was being given the work as and when the regular Driver was not available, he was not given work as Driver continuously, he has not worked for 240 days in 12 months or 480 days in 24 calendar months and after committing accident 27.07.2011, he himself has voluntarily withdrawn from the work and stopped attending the work at Corporation and therefore submitted that the conclusion of the Labour Court that there was violation of Section 25 F of the Industrial Dispute Act is erroneous and contrary to law and therefore sought for allowing the Writ Petition by setting aside the impugned order.

4. Second respondent/workmen has filed counter affidavit stating that second respondent raised Industrial Dispute in I.D.No.25 of 2012 and award was passed reinstating the second respondent in service with back wages. Subsequently, he filed E.P.No.17 of 2014 in I.D.No.25 of 2012 for execution of the award and arrest has been ordered. Aggrieved by the same, C.R.P.No.2490 of 2014 was filed and the same is pending. The second respondent has filed M.P.No.2 of 2014 seeking permission to withdraw 50% of Rs.5.00 lakhs deposited by the petitioner corporation on 09.04.2014. C.P.No.10 of 2014 is



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filed before the first respondent Labour Court as per the award in I.D.NO.25 of

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5. Learned counsel for the second respondent/workmen has submitted that the second respondent/workmen was employed as Driver from November 2009 and has worked for 240 days in 12 calendar months and 480 days in 24 calendar months and became permanent workmen and that on 27.07.2011 second respondent was dismissed from service on the allegation that he has committed fatal accident on account of his negligent driving. It is further submitted that prior to dismissing the second respondent, petitioner corporation has not conducted any enquiry, no notice was given, no explanation was called for. It is also further submitted that though Criminal case was registered against the second respondent, subsequently, the second respondent was acquitted from all the charges and even after acquittal from the Criminal case, the second respondent has approached the petitioner corporation but there was no response.

6. In the meanwhile, second respondent/workmen has filed Execution Petition in E.P.No.17 of 2014 for enforcement of the award passed in I.D.No.25



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of 2012 and the Labour Court without considering the fact Writ Petition No.17069 of 2014 is filed by the petitioner corporation, aggrieved by the I.D.No.25 of 2012 has directed to arrest the Managing Director of the corporation for execution of I.D.No.25 of 2012 Challenging the said order, petitioner corporation has preferred C.R.P.No.2490 of 2014 wherein interim stay was granted in M.P.No.1 of 2014 and on a condition that petitioner shall deposit a sum of Rs.5.00 lakhs on 09.04.2014. The said order was complied with and Rs.5.00 lakhs was deposited. Despite the pendency of C.R.P.No.2490 of 2014, C.P.No.10 of 2014 was allowed directing the petitioner corporation to pay of Rs.4,38,420/-.

7. It is submitted by the learned counsel for the petitioner corporation that the orders in C.P.No.10 of 2014 which was passed basing on I.D.No.25 of 2012 dated 08.10.2013 is illegal and against the spirit of Section 33(c)(2) of the Industrial Dispute Act, 1947. It is also further submitted that Labour court has failed to see that there was no record that the second respondent workmen has worked for more than 480 days in 24 calendar months. Learned counsel for the second respondent workmen has submitted that the orders of C.P.No.10 of 2014 are basing on the award in I.D.No.25 of 2012 and thereby the same should not be intervened with.



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8. Heard, Mr.M.Aswin, the learned counsel appearing for the petitioner as well as Mr.R.Muralidharan, the learned counsel for the second respondent, and perused the records.

9. C.P.No.10 of 2014 is filed consequent upon passing of the award in I.D.No.25 of 2012. It is not the case of the petitioner corporation that the direction given in the C.P.No.10 2014 to pay an amount of Rs.4,38,420/- is incorrect on account of incorrect calculation. In fact this the Writ Petition and W.P.No.17069 of 2014 which is filed aggrieved by passing of the award in I.D.No.25 of 2012, were heard simultaneously, since this Court has dismissed the Writ Petition in W.P.No.17069 of 2014 holding that award passed in I.D.No.25 of 2012 cannot be intervened with, consequently this Writ Petition which is filed aggrieved by the orders passed in C.P.No.10 of 2014 also required to be dismissed.

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



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19.06.2024

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Index : Yes / No
Speaking/Non-speaking Order
Neutral Citations: Yes/No
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To
1. The Presiding Officer,
Labour Court,
Cuddalore.

Dr.D.NAGARJUN, J.

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Pre-delivery order made in

W.P.No.17069 of 2014

19/6/2024

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