



WEB COPY

W.P.Nos.22529 and 5050 of 2019
and W.M.P.No.21957 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.22529 and 5050 of 2019
and W.M.P.No.21957 of 2019

W.P.No.22529 of 2019

The Management,
Tamil Nadu State Transport
Corporation (Salem) Limited,
Bharathipuram, Salem Road,
Dharmapuri - 5.

...

Petitioner

versus

1.C.Louis

2.Special Deputy Commissioner of Labour,
Chennai - 6.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order dated 23.08.2017 passed by the second respondent, in A.P.No.268 of 2014 and to quash the same.

For Petitioner

:

Mr.D.Raghu

For Respondent No.1

:

Mr.R.Jaikumar
for M/s.T.Fenn Walter Associates

For Respondent No.2

:

M/s.M.Jayanthi
Additional Government Pleader



W.P.No.5050 of 2019

C.Louis

...

Petitioner

versus

The Management of
Tamilnadu State Transport
Corporation (Salem) Ltd.,
Barathi Puram, Dharmapuri Region,
Salem Main Road,
Dharmapuri - 5.

...

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to reinstate the petitioner in service and continuity of service with back wages and all other attendant benefits with 12% interest from the date of dismissal to till the date of realization of amount in pursuant to the order passed by the Special Joint Commissioner of Labour, Chennai dated 23.08.2017 in A.P.No.268 of 2014.

For Petitioner : Mr.R.Jaikumar
for M/s.T.Fenn Walter Associates

For Respondent : Mr.M.Aswin
Standing Counsel

COMMON ORDER

Since the issue involved in both the Writ Petitions is one and the same, these Writ Petitions were heard together and disposed by this common order.



2. These Writ Petitions have been filed challenging the order of the Special Joint Commissioner of Labour, Chennai, dated 23.08.2017 in A.P.No.268 of 2014 and direct the management to reinstate the workman in service with continuity of service along with back wages and all other attendant benefits.

3. The learned counsel for the petitioner submitted that despite the petitioner management has complied all the conditions laid down by the Hon'ble Apex Court in ***Lalla Ram Vs. Management of D.C.M. Chemical*** reported in ***1978 AIR (SC) 1004***, the authority concerned did not appreciate the matter in a right perspective and had chosen to reject the approval.

4. On perusal of the impugned order, it is seen that the Special Joint Commissioner of Labour, has dealt all the 5 points enlisted in the judgment of the Hon'ble Supreme Court rendered in ***Lalla Ram's*** case. It has given a finding that *prima facie* case for dismissal has not been proved and the enquiry has not been conducted in compliance of the principles of natural justice and the workman was victimised due to dismissal and there was a shortfall in paying one month salary at the time of dismissal. Having



found the above points against the petitioner management, the request for approval was disallowed.

5. The other condition as to the payment of one month salary is concerned, the petitioner management cannot say anything other than the compliance of the compulsory payment. There is no dispute that the petitioner management had paid a sum of Rs.23,450/- through cheque on 17.10.2014 to the first respondent workman and that was received by him. But the contention of the first respondent workman is that the amount of Rs.23,450/- does not represent the whole of the salary payable to him at the relevant point of time in view of the raised Dearness Allowance and in this regard, Government Order has been issued in G.O.No.245, Finance (Allowances) Department, dated 10.10.2014.

6. The learned approval authority has made a specific observation that the first respondent workman has produced the Government Order in G.O.No.245, Finance (Allowances) Department, dated 10.10.2014 in order to show that he is entitled to the enhanced Dearness Allowance. The petitioner management did not produce any materials to show that the



amount is inclusive of the enhanced Dearness Allowance as per the Government Order issued on 10.10.2014.

7. However, the learned counsel for the petitioner management submitted that the said order has come into effect only on 17.10.2014 and the Board has passed a resolution on 18.10.2014 and hence, it is wrong on the part of the authority concerned to arrive at a conclusion that the condition of paying one month salary was not complied.

8. Whatever may be the case, unless the petitioner produces the relevant materials before the appropriate authority, the authority concerned cannot be expected to appreciate the contentions now made by the learned counsel for the petitioner. So, it cannot be the argument of the petitioner that the appropriate authority should seek further details and only then the petitioner was obliged to produce any additional documents as proof of payment of one month salary as prescribed under Section 33(2)(b) of the Industrial Disputes Act, 1947.

9. There are other conditions which are also not been complied by the petitioner and hence, the approval was not given, which in my opinion,



the appropriate authority has properly dealt the approval petition and appraised whether the conditions have been properly complied and on coming to a conclusion that the conditions were not complied, they have chosen to dismiss the approval petition which in my opinion, does not suffer from any infirmity for interference.

10. As the petitioner workman is not in service consequent to the dismissal of the approval petition in A.P.No.268 of 2014, the respondent management is directed to reinstate the petitioner workman into service along with backwages and other attendant benefits, within a period of two weeks from the date of receipt of a copy of this order.

11. In the result, W.P.No.22529 of 2019 is **dismissed** and W.P.No.5050 of 2019 is **allowed**. No costs. Consequently, connected Miscellaneous Petition is closed.

20.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri



W.P.Nos.22529 and 5050 of 2019
and W.M.P.No.21957 of 2019



To

The Special Deputy Commissioner of Labour,
Chennai - 6.



WEB COPY

W.P.Nos.22529 and 5050 of 2019
and W.M.P.No.21957 of 2019



R.N.MANJULA, J.

sri

W.P.Nos.22529 and 5050 of 2019
and W.M.P.No.21957 of 2019

20.09.2024