



W.A.No.2702 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

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

W.A.No.2702 of 2023

The Management of
Metropolitan Transport Corporation Ltd.,
(formerly known as PTC Ltd.),
Pallavan House,
Chennai – 2.

... Appellant

Vs.

1.The Presiding Officer,
Principal Labour Court,
High Court,
Chennai – 104.

2.Thiru.C.Natarajan

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act,
praying to set aside the order dated 01.08.2023 made in W.M.P.No.16838 of
2023 in W.P.No.24968 of 2009.

For Appellant : Mr.R.Raman Laal,
Additional Advocate General
assisted by Mr.A.Vinothraj

For R1 : Labour Court



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For R2 : Mr.S.Ravi

JUDGMENT

(Judgment of the Court was made by *M.S.RAMESH, J.*)

On a charge that the second respondent/Driver had caused a fatal accident, domestic inquiry was conducted and pursuant to the findings of the Inquiry Officer, he was dismissed from service on 28.05.1994. The challenge to the order of dismissal before the Labour Court, Chennai, was made in I.D.No.620 of 1995 and by an Award dated 30.07.2007, the Labour Court had directed the Corporation to reinstate the second respondent, together with continuity of service and all other attendant benefits but without backwages. The Corporation had challenged the Award of the Labour Court in a Writ Petition in W.P.No.24968 of 2008, which was dismissed for default on 03.01.2019. Thereafter, the Corporation had filed a petition in W.M.P.No.2070 of 2020, seeking for condonation of delay of 356 days in filing the petition for restoration. The aforesaid miscellaneous petition was not pursued by the Corporation and they had chosen to file another petition in W.M.P.No.33057 of 2022, seeking to condone the delay of 704 days in filing the restoration petition. Since W.M.P.No.33057 of 2022



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was filed without noticing the earlier petition i.e. W.M.P.No.2070 of 2020, the same was withdrawn on 17.03.2023 and thereafter, W.M.P.No.2070 of 2020 was ordered on 07.06.2023. In the meantime, the second respondent/workman had filed an Execution Petition in E.P.No.3 of 2023, in which the attachment of the schedule vehicle therein was effected. Subsequently, W.M.P.No.16838 of 2023 was filed for restoration and by taking into account the over all conduct of the Corporation in pursuing with the Writ Petition and the default caused, the learned Single Judge had dismissed the restoration petition on 01.08.2023, by holding that it would not be appropriate to entertain this restoration petition. The aforesaid order of the learned Single Judge dated 01.08.2023 is under challenge before us in the present Writ Appeal.

2. Pending the Writ Appeal, a Co-ordinate Bench of this Court had passed an interim order on 09.10.2023, pursuant to which, the Corporation had deposited a sum of Rs.2,25,000/- through a demand draft bearing No.345746 dated 24.11.2023 before the Labour Court, Chennai.

3. The learned Additional Advocate General appearing for the



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appellant/Corporation would submit that the charge against the second respondent/workman was very serious in nature and therefore, he made a sympathetic plea to give the Corporation an opportunity to conduct the case on merits before the learned Single Judge. He further added that pending the Writ Appeal, the workman was being paid his last drawn wages under Section 17B of the Industrial Disputes Act.

4. Per contra, the learned counsel appearing for the second respondent/workman would submit that the order of the Labour Court came to be passed way back in the year 2007 and 16 years were spent in the adjudication of the Writ Petition alone, which caused serious prejudice to the second respondent/workman. He would also submit that the second respondent/workman had superannuated on 30.04.2023 and his retirement benefits are yet to be disbursed, which further adds to his agony.

5. We do not appreciate the manner in which the appellant/Transport Corporation has conducted the writ proceedings before this Court. The Award of the Labour Court came to be passed on 30.07.2007 and after two years, the Corporation had chosen to challenge the Award in W.P.No.24968



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of 2009. Pending the Writ Petition, they were directed to pay the last drawn wages under Section 17B of the Industrial Disputes Act, which was complied with. When the Corporation had committed default in appearing before the Writ Court, the Writ Petition was dismissed for default on 03.01.2019. However, the Corporation did not choose to take effective steps for restoring the Writ Petition, but rather had committed a delay of 356 days in filing the restoration petition in W.M.P.No.2070 of 2020 and a further delay of 704 days and filed second condonation petition in W.M.P.No.33057 of 2022. The learned Single Judge had taken note of all these facts and by expressing his disappointment to the manner in which the Corporation had conducted the proceedings, had dismissed the Writ Petition.

6. Even though the second respondent/workman had the benefit of the Award since the year 2007, he could not experience the benefit of the Award, in view of the long pendency of the Writ Petition. Ultimately, he could file the Execution Petition only in the year 2023, in which, his monetary benefits were secured by way of an order of interim attachment. It can be clearly seen that serious prejudice might have been caused to the workman during the pendency of the litigation which commenced in the



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year 1995 and is pending till date. In this background, entertaining the sympathetic plea made by the learned Additional Advocate General, at this stage, would cause further prejudice to the workman. Hence, we do not find any infirmity in the order of the learned Single Judge.

7. Accordingly, the Writ Appeal stands dismissed. In view of this dismissal order, the Corporation shall forthwith disburse the entire monetary benefits under the Award, together with his DCRG benefits, within a period of eight (8) weeks from the date of receipt of a copy of this order. The second respondent/workman is also at liberty to make an appropriate application, seeking for withdrawal of his Rs.2,25,000/- that has been deposited by the Corporation before the Labour Court, pending the Writ Appeal. No costs.

[M.S.R., J] [C.K., J]
27.08.2024

Index: Yes/No
Speaking/Non-speaking order
Sni

To

The Presiding Officer,
Principal Labour Court,



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Chennai – 104.



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and
C.KUMARAPPAN, J.

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