



C.R.P.(PD)No.3439 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.3439 of 2023

The Managing Director,
Tamil Nadu State Transport Corporation,
Salamedu,
Villupuram Taluk,
Villupuram District

.. Petitioner

Vs.

S.A.Ezhumalai .. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order passed in E.P.No.12 of 2021 in I.D.No.5 of 2020, dated 07.09.2023, on the file of the Presiding Officer, Labour Court, Cuddalore.

For Petitioner : Mr.T.Chandrasekaran

For Respondent : Mr.A.Mohamed Ismail

ORDER

The present Civil Revision Petition arises against an order passed by the learned Presiding Officer, Labour Court at Cuddalore in ordering arrest of the Managing Director of the Tamil Nadu State Transport Corporation,



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Salamedu, Villupuram in E.P.No.12 of 2021 in I.D.No.5 of 2020 dated 07.09.2023.

2. E.P.No.12 of 2021 was filed to execute the Award passed by the Labour Court at Cuddalore in I.D.No.5 of 2020.

3. The case of the civil revision petitioner is that the respondent/S.A.Ezhumalai was appointed as a driver on 28.08.2015. On account of the fact that during the course of duty, a fatal accident occurred, he stopped coming for duty from 06.02.2018. Therefore, a charge memo was issued on 07.04.2018. As the conciliation talks failed, and since the civil revision petitioner decided to terminate his service, an industrial dispute arose. This was raised in I.D.No.5 of 2020. After receipt of a counter from the civil revision petitioner, the Labour Court passed an Award on 30.09.2021 allowing the I.D.No.5 of 2020. It granted reinstatement of the petitioner along with continuity of service and awarded 50 % of the backwages.

4. Being unsatisfied with the said Award, a Writ Petition came to be



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filed before this Court in W.P.No.16924 of 2022. The said Writ Petition was dismissed by this Court on 31.07.2023. In the meantime, the workman/decreed holder initiated execution proceeding in E.P.No.12 of 2021. The learned executing Judge taking note of the fact that the Award had not been complied with, allowed the same in exercise of Section 29 of the Industrial Disputes Act, 1947 and consequently, ordered arrest of the civil revision petitioner. Hence, the present revision has been presented before this Court.

5. Mr.T.Chandrasekaran would point out that the execution petition was presented when an interim order had been granted by this Court in the Writ Petition was in force. Therefore, he would plead that the execution petition itself is not maintainable.

6. I have to take note of the subsequent events which will decide the fate of the revision. The order passed in W.P.No.16924 of 2022 was taken on appeal before the Division Bench of this Court in W.A.No.593 of 2024. The Division Bench confirmed the order passed by the learned Single Judge dismissing the Writ Petition on 10.06.2024. Therefore, the Award has



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attained its finality.

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7. Taking note of the fact that by ordering arrest of the Managing Director of the Tamil Nadu State Transport Corporation, the dues of the workman is not going to be settled, and since the civil revision petitioner is a public institution, I called upon Mr.T.Chandrasekaran to file an affidavit of undertaking stating the period within which the civil revision petitioner will discharge the liability. Accordingly, Mr.T.Chandrasekaran has filed the affidavit of the General Manager of the Tamil Nadu State Transport Corporation at Villupuram.

8. He has clearly and categorically stated that if two months time is granted, the admitted balance amount would be deposited before the Labour Court to the credit of E.P.No.12 of 2021. The said undertaking affidavit is taken on record, and it is recorded.

9. The executing Court shall defer the issuance of warrant of arrest for a period of eight weeks from today. The civil revision petitioner is granted time till 30.09.2024 to discharge the liability under the decree. The



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executing Court shall call the Execution Petition for hearing on 01.10.2024.

In case, the civil revision petitioner does not comply with the said undertaking affidavit, appropriate directions can be passed by the executing Court. Needless to say, it is always open to the respondent to initiate action, not restricted to contempt, as against the civil revision petitioner, in case of default.

10. The order passed by the learned executing Judge stands confirmed. But time is granted to enable the civil revision petitioner to comply with his undertaking filed before this Court.

11. Accordingly, these Civil Revision Petitions stand disposed of. No costs.

01.08.2024
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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation: Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned Presiding Officer,
Labour Court,
Cuddalore

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and

C.M.P.No.2856 of 2023

01.08.2024

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