



WEB COPY



W.P.No.289 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.289 of 2024
and WMP.No.357 of 2024

The Management of
Tamil Nadu State Transport
Corporation (Coimbatore) Ltd.,
No.37, Mettupalayam Road
Coimbatore.

... Petitioner

Vs.

R.Muralichandraraj

... Respondent

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 award made in C.P.No.28 of 2020 dated 09.08.2023 on the file of the Additional Labour Court, Coimbatore and quash the same.

For Petitioner : Mr.T.Chandrasekaran

For Respondent : Ms.V.Porkodi



W.P.No.289 of 2020

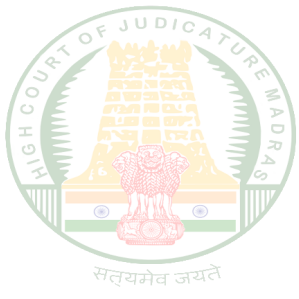
ORDER

WEB COPY

Challenging the order passed by the Additional Labour Court, Coimbatore, in C.P.No.28 of 2020, the petitioner-Management viz., the Transport Corporation is before this Court.

2. The facts that have given rise to the filing of the above writ petition is herein below set out :

- a. The respondent-workman who had joined the services of the petitioner-Corporation as a driver on 11.11.2007, was attached to Mettupalayam-I Branch depot. In the course of employment, while he was on duty on 28.12.2017, owing to his rash and negligent driving, he had caused an accident by dashing against a woman pedestrian near the State Bank at Narasimma Naikenpalam, and she died on the spot. The FIR came to be registered against the respondent and he was subsequently suspended from service on 29.12.2017. It is alleged that on account of the said accident, the petitioner-Management had sustained a loss of Rs.17,000/- towards damages of the vehicle and



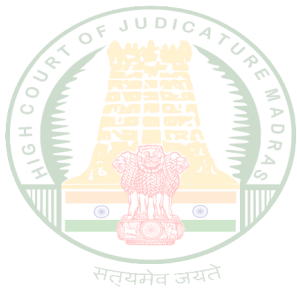
WEB COPY



W.P.No.289 of 2017

also Rs.4,400/- towards loss of income.

- b. Pending the enquiry, the petitioner-Corporation vide proceedings dated 25.01.2018 had required the petitioner to join duty from 28.01.2018 onwards, but the respondent-workman refused to receive the same and did not join the duty. Hence, the proceedings was pasted on the notice board.
- c. In the meantime, a charge memo was issued on 08.02.2018, stating why the damages incurred by the petitioner-Corporation by the respondent-workman shall not be recovered from him. However, no explanation was offered by the respondent-workman.
- d. Thereafter, enquiry was conducted against the respondent-workman, and he was imposed with a punishment of stoppage of increment for three years without cumulative effect.
- e. The petitioner-Management paid him the subsistence allowance for the period of 30 days i.e., from 29.12.2017 to 27.01.2018.
- f. Even thereafter, the respondent-workman was unauthorizedly absent from duty for more than 10 days from 28.01.2018. Hence, a charge memo was issued on 24.02.2018 by the Management, to which, the respondent-workman had submitted his explanation on



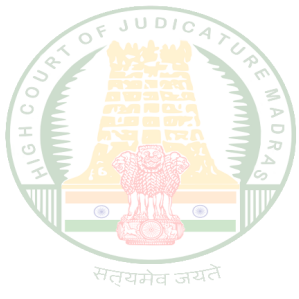
WEB COPY



W.P.No.289 of 2023

16.05.2018 and requested to provide an employment, without prejudice to the enquiry pending and that the Management had permitted him to join duty on 20.05.2018.

- g. Be that as it may, the respondent-workman had filed a claim petition in C.P.No.30 of 2018 claiming subsistence allowance from 29.01.2018 to 04.04.2018 for Rs.27,455/-. This computation petition was allowed by the Labour Court by order dated 25.10.2019. Challenging the said order of the Labour Court, the petitioner-Management preferred a writ petition in W.P.No.5428 of 2020 and the same was dismissed on 11.12.2023 and therefore, the petitioner-Management deposited a sum of Rs.29,455/- into the Court.
- h. Thereafter, the respondent-workman filed the present claim petition in C.P.No.28 of 2020, which is the subject matter of the writ petition, claiming subsistence allowance for a period of 46 days from 05.04.2018 to 20.05.2018 to the tune of Rs.28,702/-.
- i. A counter was filed by the petitioner-Management stating that the respondent-workman has no right to file the claim petition as he remained absent for the said period. But the Labour Court,



WEB COPY



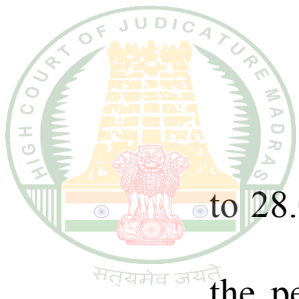
W.P.No.289 of 2023

without considering the merits of the case, had allowed the claim petition in C.P.No.28 of 2020 by order dated 09.08.2023, computing arrears at Rs.28,702/- along with 6% interest.

Challenging the same, the petitioner-Management is before this Court.

3.The learned counsel appearing for the respondent-workman in his claim petition would contend that since he was jobless and his family was suffering without income, the respondent-workman had written several letters requesting to pay the subsistence allowance. The Management without paying the subsistence allowance had issued a charge memo dated 24.02.2018, alleging that the workman was unauthorizedly absent for more than 10 days from 28.01.2018. However, this charge memo was communicated to the workman only on 18.05.2018, and that he was directed to appear in person. Accordingly, the workman appeared before the respondent on 21.05.2019 and thereafter, he resumed his duty.

4. The respondent-workman would also contend that he was suspended from duty on 28.12.2017. His last drawn salary was Rs.24,599/-, and he was paid the subsistence allowance for 32 days i.e., from 28.12.2017



to 28.01.2018. However, the subsistence allowance had not been paid for the period he was kept out of work. Therefore, the workman had filed C.P.No.30 of 2018 claiming subsistence allowance for a period of 66 days i.e., from 29.01.2018 to 04.04.2018 at the rate of 50% salary. This apart, he filed the present claim petition in C.P.No.28 of 2020, claiming subsistence allowance for 46 days from 05.04.2018 to 20.05.2018 at the rate of 75% of his last drawn pay.

5. The Management had filed its counter to the claim petition in C.P.No.28 of 2020 resisting the claim of the workman. It is its contention that the workman has an alternate remedy under Tamil Nadu Payment of Subsistence Act, before the appropriate authority. They also would contend that on account of the rash and negligence driving of the bus by the workman, the accident had occurred and the Corporation had sustained a loss of Rs.17,000/- towards damages to the bus and Rs.4,400/- towards loss of income. The Management would submit that sufficient documents were provided to the workman and he had been directed to join the duty on 28.01.2018, pending the domestic enquiry. However, the workman had refused to receive the proceedings and the same was pasted on the notice



W.P.No.289 of 2023

WEB COPY

board on 26.01.2018. Further, the respondent-Management would submit that the workman was entitled to subsistence allowance only for 32 days i.e., from 28.12.2017 to 28.01.2018, and the same was paid to him. Thereafter, the workman remained absent without intimating the same to the Management and he had reported to duty only on 25.06.2018. Further, the workman had filed a separate claim petition demanding 50% of the subsistence allowance for the period of 66 days from 29.01.2018 to 04.04.2018. Therefore, the demand of subsistence allowance for the subsequent period from 05.04.2018 to 20.05.2018, is not maintainable.

6. The Additional Labour Court, Coimbatore, by his order dated 09.08.2023 was pleased to allow the claim petition in C.P.No.28 of 2020 and directed the Management to pay the subsistence allowance calculated at 75% of pay, to the tune of Rs.28,702/- with interest at the rate of 6% per annum from the date of the petition till the date of realization.

7. Heard the learned counsels appearing on either side and this Court also perused the records.



WEB COPY



W.P.No.289 of 2018

8. The only defence that has been raised by the petitioner-Management to the workman's claim is that the workman had not turned up for duty though he had received the proceedings requiring him to join duty on 28.01.2018 and that the same had been displayed on the notice board on 26.01.2018 itself. A perusal of the records would show that no document was submitted on the side of the Management to prove the said submission. The workman's contention is that charge memo dated 24.02.2018 itself was communicated to him only on 18.05.2018 and to prove the same Ex.W4 postal cover is marked. The workman had reported for the duty on the next day i.e., 19.05.2018. However, he was asked to rejoin with effect from 20.05.2018, which is evidenced by Ex.W5. It is seen that the workman had joined the duty pending the disciplinary proceedings. That apart, the Management had paid the subsistence allowance for the earlier period by an order of the Court in C.P.No.30/2018. The petitioner-Corporation is solely held responsible for the belated communication to the the petitioner to report for duty. Therefore, the stand taken by the petitioner-Corporation in the present proceedings is unsustainable.



W.P.No.289 of 2024

WEB COPY

9. I see no reasons to interfere with the orders passed by the Additional Labour Court, Coimbatore, in C.P.No.28/2020 dated 09.08.2023. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

26.06.2025

Index : Yes / No

Neutral Citation : Yes / No
ds



WEB COPY



W.P.No.289 of 2024

P.T. ASHA, J.

ds

W.P.No.289 of 2024

26.06.2025