

W.P.No.25255 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

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RESERVED ON : 25.04.2025
PRONOUNCED ON : 29.05.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P.No. 25255 of 2021
and

W.M.P.No. 26637 of 2021

The General Manager,
Tamil Nadu State Transport Corporation,
(Villupuram) Ltd,
Vellore Division,
Vellore.

.....Petitioner

Vs.

S.Kothandaraman,
No.16/8, Kannaki Nagar,
OkkiyamThuraipakkam,
(near PTC Quarters)
Chennai

....Respondent

Prayer in W.P.

To pass a writ or certiorari or any writ, order or direction to quash the impugned order passed by the III Additional Labour Court, Chennai in C.P.447 of 2013 dated 10.01.2019 for the payment of back wages and pass such other orders as it deems fit and necessary.

Prayer in W.M.P.

To grant stay of operation of impugned order passed by the III Additional



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Labour Court, Chennai in C.P.447 of 2013 dated 10.01.2019 pending disposal of the Writ Petition and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Appearance of Parties:

For Petitioner: Mr.M.Aswin, Advocate

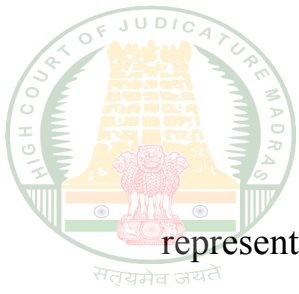
For Respondent: Mr. P.M.Duraisamy, Advocate

J U D G M E N T

Heard.

2.The present writ petition has been filed by the State-owned Transport Corporation (Vellore Division), challenging the order dated 10.01.2019 passed by the III Additional Labour Court, Chennai in C.P. No. 447 of 2013. By the said order, the Labour Court computed a sum of Rs. 5,05,359.10 as the amount payable to the respondent and directed that the same be paid within a period of two months from the date of the order. Although the impugned order was passed on 10.01.2019, the petitioner corporation filed this writ petition only on 09.01.2021—nearly two years thereafter. The writ petition was admitted on 10.03.2022, and notice was ordered in the accompanying stay petition.

3.When the matter was taken up on 17.04.2025, due to lack of proper

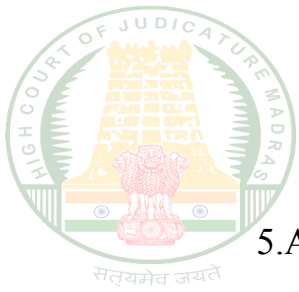


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representation on behalf of the petitioner corporation, this Court directed the

personal appearance of the General Manager. In the meantime, a new counsel entered appearance for the petitioner and filed an additional typed set of documents, including the work review sheets pertaining to the respondent, and proceeded to argue the matter.

4.The respondent was employed as a driver and was dismissed from service by order dated 17.12.2003. At the relevant time, a conciliation proceeding was pending before the Joint Commissioner of Labour. Accordingly, the petitioner-management filed an application under Section 33(2)(b) of the Industrial Disputes Act seeking approval for the dismissal. The said application was taken on file as Approval Petition No. 81 of 2004. Upon hearing both parties, the Conciliation Officer, by order dated 31.01.2007, dismissed the application and declined to grant approval.As the petitioner failed to comply with the said order, the respondent filed W.P. No. 812 of 2008 seeking a direction to implement the same. This Court, by order dated 08.02.2008, allowed the writ petition and directed the petitioner to reinstate the respondent in view of the dismissal of the approval petition.



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5. Aggrieved by the aforesaid order of this Court, the petitioner corporation preferred a writ appeal in W.A. No. 225 of 2009. It was brought to the notice of the Court that during the pendency of the proceedings, the respondent had been reinstated. In view of the same, the Division Bench disposed of the writ appeal by order dated 01.04.2009. In paragraph 4 of the said order, the following was recorded:

“During the pendency of Writ Appeal No. 225 of 2009 and Writ Petition No. 25546 of 2007, in view of the direction for reinstatement in Writ Petition No.812 of 2008, dated 8.2.2008, the appellant Management of Tamil Nadu State Transport Corporation (Villupuram) Ltd, Vellore Division, passed an order, dated 18.3.2009, reinstating the writ petitioner S.Kothandram. In view of the order of reinstatement dated 18.3.2009, Writ Appeal No.225 of 2009 and Writ Petition No. 25546 of 2007 have become infructuous and no further orders are necessary and they are accordingly closed. No costs. The Miscellaneous Petition is closed.”

6. As the respondent's pay had not been properly fixed following his reinstatement, he filed W.P. No. 23573 of 2010 seeking a declaration that his pay should not be reduced from Rs. 8,675/- to Rs. 5,335/-. Upon issuance of notice, this Court, by order dated 20.10.2010, disposed of the writ petition with a direction to the petitioner corporation to consider the respondent's representation dated 13.09.2010 and to appropriately fix his pay. It is now



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brought to the notice of this court that by proceedings dt. 18.10.2008, and as

per W.P.23573 of 2010 order the representation was considered and basic pay was restored to Rs.8675/- from Rs.5335/- and difference of amount for the period from 06/2009 to 11/2010 (Total amount Rs.72,899/- after deducting PF of Rs.6,430/- from total amount) balance Rs.66,469 was paid to the Respondent.

7. Thereafter, the respondent filed a claim petition under Section 33C(2) of the Industrial Disputes Act before the III Additional Labour Court, Chennai, claiming arrears towards the 9th wage settlement, back wages, bonus and ex gratia, leave surrender amount, and performance incentive, aggregating to a total sum of Rs. 5,05,359.10. The petition was taken on file as C.P. No. 447 of 2013. The petitioner-management entered appearance and filed a counter statement dated 18.01.2014, contending that all eligible benefits had been paid to the respondent pursuant to the order of this Court and that no further amount was due. Before the Labour Court, the respondent examined himself as PW1 and filed 18 documents, which were marked as Exhibits P1 to P18. On behalf of the petitioner-management, one Ms. S. Kalavathi was examined as RW1, and eight documents were filed and marked as Exhibits R1 to R8.



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8. Upon a detailed consideration of the oral and documentary evidence placed before the Labour Court, as well as the additional records now filed in these proceedings, it is evident that the respondent's entitlement to continuity of service and back wages flows directly from the legal consequence of the dismissal of the approval petition filed under Section 33(2)(b) of the Industrial Disputes Act. However, the Labour Court, while awarding the entire amount claimed under various heads such as back wages, bonus, performance incentive, and leave surrender, did not have the benefit of certain departmental G.O.s, wage revision circulars, and work review sheets now produced by the petitioner-management. These documents, although not filed earlier, appear relevant to determining eligibility criteria for specific monetary benefits—some of which, such as bonus and performance incentives, are ordinarily linked to actual performance of duty. The Labour Court also did not take into account the admitted payment of Rs.66,469/- already made to the respondent pursuant to earlier court directions. In such circumstances, and in the interest of fairness, this Court considers it appropriate to remand the matter to the Labour Court for a limited reconsideration confined to the computation of the amount payable, without disturbing the finding on the non est nature of the dismissal and the



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respondent's consequent entitlement to continuity of service.

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9. In the result, the order dated 10.01.2019 passed by the III Additional Labour Court, Chennai in C.P. No. 447 of 2013 is set aside as regards the quantum and the matter is remanded to the said Labour Court for a fresh adjudication confined to the computation of the amount payable to the respondent. The Labour Court shall consider all relevant materials placed on record, including the documents now filed before this Court—such as wage revision proceedings, 12(3) settlements, departmental G.O.s, service eligibility norms for performance-linked benefits, and records of payments already made—and pass appropriate orders on the quantum in accordance with law. The Labour Court shall not reopen the question of the respondent's entitlement to back wages or the invalidity of the dismissal, which stands concluded by virtue of the rejection of the approval petition under Section 33(2)(b) of the Industrial Disputes Act. The Labour Court is directed to complete the exercise within a period of four months from the date of receipt of a copy of this order. Consequently, the writ petition is partly allowed to the extent of remand, and the connected miscellaneous petition stands closed. There shall be no order as to costs.



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NCC : Yes / No

Index : Yes / No

Speaking Order / Non-speaking Order

DR. A.D. MARIA CLETE, J

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To

The Presiding Officer,
III Additional Labour Court,
Chennai.
(with records)

Pre-Delivery Judgment made in
W.P.No. 25255 of 2021
and
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