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W.P.Nos.3084 of 2022 and 32217 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.3084 of 2022 and 32217 of 2023

And

W.M.P.Nos.3247 of 2022, 11476 & 11478 of 2025

The Managing Director
Metropolitan Transport Corporation
(Chennai) Ltd.,
Anna Salai,
Chennai – 600 002.

... Petitioner in W.P.3084/2022

S.D.Ramu

... Petitioner in W.P.32217/2023

Vs.

S.D.Ramu

... Respondent in W.P.3084/2022

The Managing Director
Metropolitan Transport Corporation
(Chennai) Ltd.,
Anna Salai,
Chennai – 600 002.

... Respondent in W.P.32217/2023

Prayer in W.P.No.3084 of 2022:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records pertaining to the order passed in C.P.No.122 of 2012 dated 18.03.2019 on the files of the II Additional Labour Court, Chennai and quash the same.

Prayer in W.P.No.32217 of 2023:

Petition filed under Article 226 of the Constitution of India to



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issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order dated 18.03.2019 in C.P.No.122 of 2012 on the file of the learned II Additional Labour Court and quash the same in so far as disallowing the petitioner claim for the period from 01.05.2001 to 06.09.2004 and in so far as not computing and not quantifying the amount payable to the petitioner for the period from 07.09.2004 to 31.10.2011 and consequently direct the respondent Management to pay the petitioner the back wages and other attendant benefits as prayed for, together with interest at the rate of 12% per annum, award costs.

For Petitioner : Mr.R.Balaji
in W.P.3084 of 2022

M/s.V.Porkodi
in W.P.32217 of 2023

For Respondent : M/s.V.Porkodi
in W.P.3084 of 2022

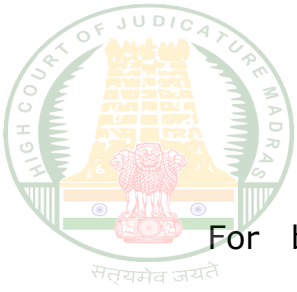
Mr.R.Balaji
in W.P.32217 of 2023

COMMON ORDER

The writ petitions have been filed seeking to quash the order passed by the II Additional Labour Court, Chennai in C.P.No.122 of 2012 dated 18.03.2019.

2.Since the issue involved in these writ petitions are interrelated, they are heard together and disposed of by way of a common order.

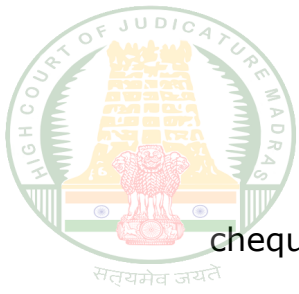
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For brevity, the petitioner in W.P.No.3084 of 2022 would be hereinafter referred to as 'Management' and the petitioner in W.P. No.32217 of 2023 would be hereinafter referred to as 'Workmen'.

3.The case of the Workmen is that the Workman joined the service of the Management on 21.12.1997 and when he was in service, the Management issued charge memo to him stating that he has submitted fabricated education certificates as well as IRD certificate and suspended him on 26.04.2001 and after enquiry, terminated his service on 07.02.2003. Thereafter, the termination order dated 07.02.2003 was cancelled and a new termination order dated 07.09.2004 was issued to the Workman and the Management filed approval petition and the same was dismissed by the Joint Commissioner of Labour on 22.12.2005. Even thereafter, the Management did not reinstate him and hence, the Workman filed W.P.No.6172 of 2008 seeking direction to the Management to reinstate the Workman with backwages and other benefits and the said writ petition was allowed by this Court on 22.09.2008. Even thereafter, the Management did not reinstate him and hence, the Workman filed contempt petition and after filing of the contempt, the Workman was reinstated in service on 31.03.2011, however, the Management gave a



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cheque only for a sum of Rs.2,09,509/- and hence, the Workman filed C.P.No.122 of 2012 under Section 33C(2) of the Industrial Disputes Act, on the file of the II Additional Labour Court, Chennai seeking to compute the money value Rs.9,83,443/- and to direct the Management to pay the amount to the Workman and the II Additional Labour Court passed the impugned order holding that the Workman is eligible to get backwages and all other benefits from 07.09.2004.

4.The learned counsel appearing for the Workman submitted that the Workman was placed under suspension from 26.04.2001 and termination order was passed on 07.09.2004 and subsistence allowance was not paid to the Workman. If the Workman has been allowed to work atleast after rejection of the approval petition, he might have got promotion, increment etc., however the II Additional Labour Court did not direct the Management to pay subsistence allowance, increment and promotional benefits, which is not sustainable one.

5.The learned counsel appearing for the Management submitted that that C.P. under Section 33C(2) of the Industrial Disputes Act can be filed only on the basis of pre existing rights inbetween the parties.



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In the present case, pre existing rights accrue only after the order of this Court dated 22.09.2008 in W.P.No.6172 of 2008, however the II Additional Labour Court passed the impugned order holding that the Workman is eligible to get backwages and all other benefits from 07.09.2004, which is not sustainable one. The learned counsel further submitted that once the Workman received a sum of Rs.2,09,509/- towards backwages without raising any objection, he is not entitled to file C.P. under Section 33C(2) of the Industrial Disputes Act. Hence, the impugned order is liable to be set aside.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts of the case is not in dispute. Admittedly, the Workman was terminated from service on 07.09.2004. Thereafter, the Management filed approval petition and the same was dismissed by the Joint Commissioner of Labour on 22.12.2005. Even thereafter, the Management did not reinstate him and hence, the Workman filed W.P.No.6172 of 2008 seeking direction to the Management to reinstate the Workman with backwages and other benefits and the said writ petition was allowed by this Court on 22.09.2008.



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8.This Court in the order dated 22.09.2008 has directed the Management to reinstate the Workman forthwith in service with backwages and all other benefits. When such an order was passed by this Court, the Workman is entitled to file C.P. under Section 33C(2) of the Industrial Disputes Act, as per the last drawn wages.

9.Perusal of records reveal that the last drawn wage of the Workman at the time of termination is Rs.5,000/- per month. The Workman was reinstated in service on 31.03.2011. Hence, the Workman is entitled to receive backwages from the date of termination i.e., 07.09.2004 till 31.03.2011 by calculating the same at Rs.5,000/- per month.

10.It is the contention of the Workman that if the Workman has been allowed to work atleast after rejection of the approval petition, he might have got promotion, increment etc., however the II Additional Labour Court did not direct the Management to pay subsistence allowance, increment and promotional benefits, however, for subsistence allowance, increment and promotional benefits there are other competent forum available and without exhausting the remedy



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before the competent forum, the Workman filing petition under Section 33C(2) of the Industrial Disputes Act is not sustainable one.

11.In view of the above, the Management is directed to pay backwages to the Workman from 07.09.2004 till 31.03.2011 by calculating the same at Rs.5,000/- per month, less the amount already paid i.e., Rs.2,09,509/- and less the amount already deposited if any, before the II Additional Labour Court, Chennai. The Workman is permitted to withdraw the amount if any, lying in the credit of C.P.No.122 of 2012 on the file of II Additional Labour Court, Chennai, along with interest accrued thereon. Liberty is granted to the Workman to work out the remedy in the manner known to law in respect of subsistence allowance, increment and promotional benefits.

12.With the above observations and directions, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

17.04.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

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M.DHANDAPANI,J.
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To

The Managing Director
Metropolitan Transport Corporation
(Chennai) Ltd.,
Anna Salai,
Chennai – 600 002.

**W.P.Nos.3084 of 2022 and
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