



WEB COPY



W.P.No. 3426 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Reserved on : 19.02.2025

Pronounced on : 17.03.2025

PRESENT:

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

W.P.No. 3426 of 2020

D.Premkumar,
S/o. Dorairaj,
No.3, 12-1, Madeswaran Koil Road,
Kuttayoor – 641 104

...Petitioner

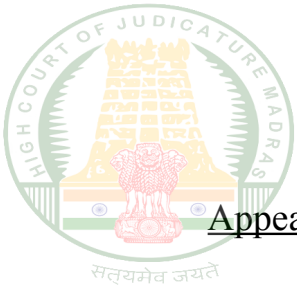
Vs.

The Management,
Tamilnadu State Transport Corporation
(Coimbatore) Ltd,
Mettupalayam Road,
Coimbatore – 641 043

...Respondent

Prayer in the W.P.

To issue appropriate Writs, Orders or Directions and in particular issue a Writ in the nature of Certiorarified Mandamus after calling for the records pertaining to the order dated 2.4.2019 passed the Hon'ble Principal Labour Court, Coimbatore, in C.P.No.101/2017, quash the same and consequently direct the respondent corporation to pay the petitioner a sum of Rs.1,15,520/- towards difference in salary for the period from 1.7.2007 to 23.5.2009 and towards earned leave salary for that period, together with interest at the rate of 12% from the date of due to the date of actual payment, Award costs.



W.P.No. 3426 of 2020

Appearance of Parties:

For Petitioner : M/s. R.Krishnaswamy and V.AjayKhose, Advocates

For Respondent : M/s.A.Sundaravadhanam, M.Arun,A.Indumathi,
Advocates

JUDGMENT

Heard.

2. The Petitioner, a workman, has filed this writ petition challenging the order of the Principal Labour Court, Coimbatore, dated 02.04.2019, in C.P. No. 101 of 2017. By the impugned order, the Labour Court rejected his claim for payment of salary from the date of regularization. The writ petition was listed for admission on 12.02.2020, and notice was taken by the counsel for the Respondent Corporation.

3. The circumstances leading to the filing of this writ petition are as follows: The Petitioner, a workman, was employed as a driver in the Respondent Transport Corporation on 19.08.2006. As per the settlement between the union and the management, any worker who completed 240 days of service was eligible for regularization. Accordingly, on 23.05.2009, the Respondent issued an order regularizing the services of the Petitioner along with 11 other workmen. The order granted regularization with



W.P.No. 3426 of 2020

retrospective effect from 01.07.2007 and fixed the pay scale at Rs. 4,320 – Rs. 601 – Rs. 4,800 – Rs. 65 – Rs. 5,775, with the Petitioner's salary set at Rs. 4,296/-. The order also explicitly stated that all monetary benefits would be calculated and paid to him.

4. However, the Respondent failed to fix the Petitioner's wages on a time-scale basis from 01.07.2007 to April 2009. Instead, he continued to be paid only on a daily wage basis. Consequently, the Petitioner computed the wages due to him for the period from July 2007 to April 2009 in accordance with the terms of the settlement. After deducting the amount already paid, he determined that the outstanding balance amounted to Rs. 1,00,699/-. The Petitioner was also not paid his earned leave wages, which totaled Rs. 14,820.96.

5. Consequently, the Petitioner filed a claim petition before the Labour Court under Section 33C(2), seeking a sum of Rs. 1,15,520/- along with interest at the rate of 24% per annum. The petition was numbered as C.P. No. 101 of 2017, and notice was issued to the Respondent Corporation. The Respondent Corporation entered an appearance and filed a counter statement (dated Nil), opposing the claim. During the proceedings before the



W.P.No. 3426 of 2020

Labour Court, the Petitioner examined himself as PW1 and submitted five documents, which were marked as Exhibits P1 to P5. On behalf of the Respondent Corporation, six documents were produced and marked as Exhibits R1 to R6.

6. The order of regularization dated 23.05.2009, which was submitted by both parties, was marked as Ex.P2 on behalf of the Petitioner and Ex.R6 on behalf of the Respondent. This order stated that the Petitioner's services were regularized with effect from 01.07.2007, and his time-scale pay was fixed accordingly. It also prescribed a probation period for him. The footnote of the order explicitly mentioned that the monetary benefits arising from the regularization would be paid along with the salary for May 2009. After examining these exhibits, the Labour Court concluded that the petition for arrears was not barred by delay or laches and was maintainable. However, it held that while the Petitioner's services were confirmed from 01.07.2007, he was entitled to monetary benefits only from 01.06.2009. The Labour Court also rejected the documents submitted by the Respondent regarding certain disciplinary proceedings initiated against the Petitioner.



W.P.No. 3426 of 2020

WEB COPY

7. Aggrieved by the rejection of his claim petition through the order dated 02.04.2019, the workman has filed the present writ petition. The learned counsel for the Petitioner, assailing the order of the Labour Court, also relied on a judgment of the Division Bench, wherein relief was granted to similarly placed individuals. In the case of *K.P. Sakthivel & Ors. vs. The Management of Tamil Nadu State Transport Corporation &Anr.*, in Writ Appeal Nos. 1581–1584 of 2021, dated 14.02.2023, the Division Bench held as follows:

“A Division Bench of this Court, in W.A.No. 2155 of 2021, dated 30.01.2023, while considering the issue with regard to the benefit flowing to the employee under a settlement, has categorically held that the Labour Court is empowered to decide a pre-existing right without any adjudication. In this case, the benefit accrues from the orders of the management, wherein, it is admitted that the employees have been regularized with retrospective effect. Hence, the employees are entitled to the monetary benefit, as determined by the Labour Court, and the finding of the learned single Judge, on this issue, is interfered with.

Writ Appeals are, accordingly, allowed. The respondent management is directed to disburse the amount to the appellants – employees, as ordered by the Labour Court, without interest, within a period of three months from the date of receipt of a copy of this order, if not already paid. If the management fails to pay the amount as aforesaid, it will fetch interest at 6% per annum from the date of the management regularizing the services and the amount of interest shall be recovered from the Official (s), who is/are



WEB COPY



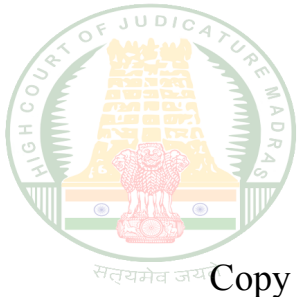
W.P.No. 3426 of 2020

responsible to comply with the orders of the Court, and adverse entry shall be made in the service record of the said Officer(s) for dereliction of duty, that may be taken note of, for depriving promotions to the said Officer (s). In the light of the decision of the Supreme Court in Central Co-operative Consumers' Store Ltd Vs. Labour Court, H.P.at Shimla and another, 1993 (3) SCC 214, the amount and interest shall be paid first and recovery of interest cannot wait for releasing the amount due to the employees.”

8. In light of the foregoing, the order passed by the Labour Court is clearly erroneous. The workman is entitled to arrears of salary from the date of his regularization, as well as wages for earned leave. Accordingly, the impugned order in C.P. No. 101 of 2017 dated 02.04.2019 is set aside. Consequently, the Respondent Corporation is directed to pay the Petitioner a sum of Rs. 1,15,520/-. However, instead of the 24% interest claimed, as per the Division Bench order, the unpaid amount shall carry an interest of 6% per annum from the date it became due until the date of payment. The writ petition is allowed on the above terms. No costs.

17.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ay



W.P.No. 3426 of 2020

Copy to:

The Presiding Officer
Principal Labour Court,
Coimbatore
(with records if any)



WEB COPY



W.P.No. 3426 of 2020

DR. A.D.MARIA CLETE, J.

ay

Pre-delivery Judgment in
W.P.No. 3426 of 2020

17.03.2025