



W.P.Nos.26664 to 26666 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.26664 to 26666 of 2013

and

MP.No.1 of 2013 (3 Nos.)

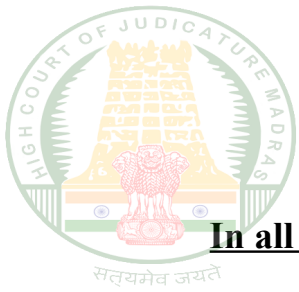
The Management,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam Road,
Coimbatore - 641 043.

...Petitioner in all W.P's.

Vs.

1. K.Radhakrishnan ...1st Respondent in W.P.No.26664 of 2013
2. K.Jagadeesan ...1st Respondent in W.P.No.26665 of 2013
3. M.Dhandapani ...1st Respondent in W.P.No.26666 of 2013
4. The Presiding Officer,
Labour Court,
Coimbatore. ...2nd Respondent in all W.P's.

Common Prayer: Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records made in C.P.Nos.63, 64 & 61 of 2010 dated 03.07.2012 on the file of the 2nd respondent and quash the same.



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In all W.P's.:

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For Petitioner : Mr.A.Sundaravaradhanan

For Respondents : Mr.K.V.Shanmuganathan, for R1
: R2 – Court

COMMON ORDER

Since the issue involved in all these Writ petitions are similar in nature, they are disposed of by way of this common order.

2. These Writ petitions have been filed seeking quashment of the common order dated 03.07.2012 made in C.P.Nos.63, 64 & 61 of 2010 respectively on the file of the 2nd respondent.

3. For brevity, the petitioner in all these Writ petitions are hereinafter referred to as the 'Management' and the respective 1st respondents are hereinafter referred to as the 'Workmen'.

4. It is the case of the management that the workmen herein are appointed as trainees in the management-Transport Corporation and their services were subsequently regularised with effect from 01.04.2001.



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While so, alleging that, though the workmen have completed their continuous employment of 240 days as early as on 28.07.1999, however, their services were regularised only on 01.04.2001 and were paid salary as per 12(3) settlement dated 13.02.1999, only from December 2002 onwards and that the difference of wages was not paid from 01.06.2001 to 31.11.2002 and claiming the difference of wages, the workmen herein filed the present computation petitions under section 33(C)(2) of the Industrial Disputes Act and the same were ordered in their favour, vide impugned common order dated 03.07.2012. Challenging the same, the petitioner has come up with these Writ petitions.

5. Learned counsel appearing on behalf of the management submitted that, admittedly the services of the workmen were regularised in the year 2001, ie., on 01.04.2001. However, these computation petitions were filed only in the year 2010, after a lapse of about a decade. Though there was no time limit prescribed under Section 33(C)(2) of the ID Act, even then, the workmen have to explain the reason for such an exorbitant delay in filing the computation Petitions, which was not done so by the workmen herein and thereby the present computation petitions suffer dismissal under the ground



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of latches. Further, though the workmen claimed that immediately after completion of 240 days, they are entitled for regularization, the workmen were appointed as trainees in the year 1999, thereafter, as per 12(3) settlement, their services were regularised from 01.04.2001 and pay were fixed in the year 2002. Unless the workmen explain before the Labour Court as to how they have been deprived of any wages on par with other employees, they cannot make such claim, however, without any such demonstration on the part of the workmen, the Labour Court had allowed the computation petitions filed by the workmen, which is not sustainable.

6. Per contra, the learned counsel appearing on behalf of the workmen submitted that the workmen herein have filed these computation petitions claiming difference of wages as per 12(3) settlement from 01.04.2001 to 28.02.2003, since, though the workmen are entitled to be regularised with effect from 28.07.1999 from the date of their appointment, however, their services were regularised only on 01.04.2001. Even then, the difference of wages was not paid to them up to February 2003. Thereby, they filed the present computation petitions and the Labour Court, after careful consideration of the material documents placed before it, allowed the said



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computation petitions, vide the impugned common order which need not be interfered with. Accordingly, he prayed for dismissal of these writ petitions.

7. Heard learned counsel on either side and perused the materials available on record

8. The main object of Section 33(C)(2) of the ID Act is for creating a mechanism for providing the benefits with regard to the pre-existing rights to an employee, which are computable in terms of money. Section 33(C)(2) acts as a tool for individual workmen to recover dues by computing the amount or value of a benefit that they are already entitled to and it is not meant for determining new claim or entitlements. Therefore, the main ingredient that forms part of Section 33(C)(2) is the pre-existing right of an employee to receive a benefit requires to be established. It becomes incumbent on the part of the employee to establish through materials his pre-existing right to a certain benefit, which alone would clothe the Labour Court with power to grant the benefit and there is no iota of adjudication which is required to be made by the Labour Court.



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9. However, ignoring the elemental question with regard to the power of the Labour Court with regard to adjudication of a claim under Section 33(C)(2) and in the absence of any pre-existing or subsisting right on the part of the workmen to invoke Section 33(C)(2) of the ID Act, the Labour Court had allowed the computation petitions filed by the workmen, which in the considered opinion of this Court needs to be interfered with.

10. Accordingly, these writ petitions stand allowed and the impugned order of the 2nd respondent dated 03.07.2012 made in the respective computation petitions are set aside. However, the workmen are at liberty to workout their remedy in the manner known to law, if so advised. No costs. Consequently, the connected miscellaneous petitions are closed.

19.02.2025

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



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