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W.P.No.7982 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.7982 of 2011

and

W.M.P.No.34985 of 2023 & M.P.Nos.1 & 2 of 2011

The Management,
Tamil Nadu Transport Corporation
(Coimbatore Division I) Limited,
No.37, Mettupalayam Road,
Coimbatore – 641 043,
Rep. by its Managing Director.

... Petitioner

Vs.

1.The Joint Commissioner of Labour (In-Charge)/
Appellate Authority under the
Payment of Gratuity Act, 1972,
Coimbatore.

2.The Assistant Commissioner of Labour/
Controlling Authority under the
Payment of Gratuity Act, 1972,
Coimbatore – 641 018.

3.S.A.Karunanithi

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records made in Gratuity Appeal No.51 of 2010 dated 13.05.2010 on the file of the Joint Commissioner of Labour (In-Charge)/Appellate Authority under the



W.P.No.7982 of 2011

Payment of Gratuity Act,1972, the 1st Respondent herein confirming the order passed by the Assistant Commissioner of Labour/Controlling Authority under the Payment of Gratuity Act,1972, the 2nd respondent herein in Gratuity Application No.16 of 2009 dated 06.11.2009, and quash the same.

For Petitioner : Mr.A.Sundaravadanan

For Respondents : No appearance [R1 & R2]
Died [R3]

ORDER

This Writ Petition has been filed by the petitioner seeking for a Writ of Certiorari, to call for the records made in Gratuity Appeal No.51 of 2010 dated 13.05.2010 on the file of the Joint Commissioner of Labour (In-Charge)/Appellate Authority under the Payment of Gratuity Act,1972, the 1st Respondent herein confirming the order passed by the Assistant Commissioner of Labour/Controlling Authority under the Payment of Gratuity Act,1972, the 2nd respondent herein in Gratuity Application No.16 of 2009 dated 06.11.2009, and quash the same.

2. The case of the petitioner is that, the 3rd respondent has joined the petitioner Corporation as Conductor on 25.04.1974 and his service



W.P.No.7982 of 2011

was regularized from 01.05.1977 and he was dismissed from service on 17.11.1994 for the misconduct of alteration of ticket fares in the tickets.

As against the order of dismissal, the 3rd respondent/workman raised an industrial dispute in I.D.No.255 of 1998 on the file of the Labour Court, Coimbatore. The Labour Court passed an award of reinstatement with continuity of service without back wages and other attendant benefits on 04.06.2002. Accordingly, the workman was reinstated in service on 17.05.2003 and attained superannuation on 30.09.2008. After retirement, he made an application before the 2nd respondent in P.G.A.No.16 of 2009 claiming gratuity for the period from 17.11.1994 to 16.05.2003 and the 2nd respondent passed an order dated 06.11.2009 directing the petitioner to pay the gratuity to the tune of Rs.2,23,209/- to the workman. Aggrieved by the same, the petitioner had preferred an appeal before the 1st respondent in A.G.A.No.51 of 2010 and the 1st respondent passed an order dated 13.05.2010 confirming the order of the 2nd respondent. Challenging the same, the petitioner Corporation has filed the present writ petition.

3. Learned counsel for the petitioner submitted that the 3rd respondent was dismissed from service on 17.11.1994 and he was



W.P.No.7982 of 2011

reinstated into service on 17.05.2003. As per the order of the 2nd respondent, for the above said period, the 3rd respondent is not entitled to gratuity, since the 2nd respondent not specifically stated in the award with regard to entitlement of gratuity. Further, he submitted that the respondents 1 and 2 have failed to consider that the 3rd respondent himself claimed a sum of Rs.8,660/- as his last drawn wage, whereas the 2nd respondent arrived at a conclusion that the last drawn wages of the 3rd respondent is Rs.11,379/-, which is *per se* unsustainable. Accordingly, he prays for appropriate orders.

4. Though name of the respondents 1 and 2 have been printed in the cause list, however, no one appeared on behalf of the respondents 1 and 2. Considering the pendency of this writ petition, this Court is inclined to dispose of this writ petition based on the materials available on record.

5. This Court has perused the materials placed on record, including the counter affidavit filed by the petitioner before the 2nd respondent as well as the 1st respondent.



W.P.No.7982 of 2011

WEB COPY

6. Admittedly, the 3rd respondent entered the service of the petitioner Corporation as a Conductor in the year 1974 and for the misconduct committed by him, he was removed from service on 17.11.1994, against which, he raised an industrial dispute in I.D.No.255 of 1998 on the file of the Labour Court and the Labour Court set aside the order of dismissal and ordered for reinstated with continuity of service and other attendant benefits without back wages. The order of the Labour Court makes it clear that the 3rd respondent is entitled to continuity of service and other attendant benefits, including the payment of gratuity except back wages. That issue was rightly adjudicated by the 2nd respondent and ordered for payment of gratuity, which was rightly confirmed by the 1st respondent, hence, the said orders do not need any interference at the hands of this Court.

7. In respect of difference in monthly income of the 3rd respondent, when the petitioner Corporation did not make any objection either before the 2nd respondent or before the 1st respondent with regard to the last drawn wages of the 3rd respondent, the same cannot be agitated before this Court that the last drawn wages of the 3rd respondent is Rs.8,660/-.



W.P.No.7982 of 2011

Hence, the orders passed by the respondents 1 and 2 cannot be said to be perverse, illegal or arbitrary. Hence, this writ petition is liable to be dismissed.

8. Accordingly, this writ petition is dismissed. No costs.
Consequently, the connected miscellaneous petitions are closed.

05.02.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

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