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W.P.No.7079 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.7079 of 2019
and W.M.P.No.7792 of 2019**

The General Manager,
Tamil Nadu State Transport Corporation Coimbatore Limited,
37, Mettupalayam Road,
Coimbatore.

... Petitioner

Vs.

K.Kaliswamy

... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the order dated 16.07.2018 passed by the Labour Court, Coimbatore, in C.P.No.575 of 2013 and quash the same.

For Petitioner : Mr.A.Sundaravadhanan

For Respondent : Mr.D.Udhayasuriyan



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ORDER

This Writ Petition has been filed challenging the order dated 16.07.2018 passed by the Labour Court, Coimbatore, in C.P.No.575 of 2013.

2. The learned counsel appearing for the petitioner Transport Corporation submits that the respondent has joined as Driver in the petitioner Corporation in the year 1989 and during his service, he committed various misconducts. However, he filed computation petition in C.P.No.575 of 2013 under Section 33(C)(2) of the Industrial Disputes Act, claiming a sum of Rs.1,29,109/- (review + dearness allowance) on the ground that the respondent had completed 21 years of continuous service at the time of settlement and therefore, he is entitled for third review benefits as per the settlement. It is an admitted position that, when a person visited with the punishment, certainly he is not entitled for third review benefits and therefore, the third review benefits was not granted in favour of the respondent and the second respondent has to establish the pre-existing right



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for receiving the said benefits. The Labour Court, without ascertaining the pre-existing right as mandated under Section 33(C)(2) of the Industrial Disputes Act, allowed the computation petition filed by the respondent and directed the petitioner to pay a sum of Rs.1,29,109/- to the respondent. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the respondent submits that the review benefits will be granted in favour of the workmen by counting the period of service rendered by them. In the present case, the respondent has rendered 21 years of service in the petitioner Corporation and therefore, he was granted first and second review benefits. However, the third review benefits has not been granted to him and thereby, he filed computation petition before the Labour Court in terms of 12(3) settlement and the issue was rightly appreciated by the Labour Court and the Labour Court allowed the computation petition filed by the respondent. Hence, he prays for dismissal of this petition.



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4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.

5. In the present case, the respondent claiming that the third review benefits and the dearness allowance have not been granted as per 12(3) Settlement, filed Computation Petition in C.P.No.575 of 2013 before the Labour Court, Coimbatore and it was allowed by the Labour Court vide impugned award dated 16.07.2018 on the ground that the petitioner Transport Corporation failed to produce the Standing Order, the Common Service Rules and the guidances to be followed for grant of Review Benefits as well as denial of Review Benefits.

6. The core issue that arises for consideration in this writ petition is that whether a person who is visited with the punishment during his employment is entitled for third review benefits. A careful perusal of the order of the Court below does not reveal that any efforts have been taken by



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the Labour Court to address the said issue. Without adjudicating on the same, the claim of the respondent for grant of the said benefit by filing a computation petition is erroneous as a right has to be first established before making a claim which can form the basis to compute. When the right to the said benefit has not been established, the order of the Labour Court granting the said benefit is erroneous. The respondent has also not demonstrated before the Labour Court that during the course of employment, even if the employee is visited with the punishment, he is entitled for third review benefits. With regard to the dearness allowance also, the respondent has not established the pre-existing right. Since the respondent/workman has not established the pre-existing right for receiving third review benefits and dearness allowance, the order of the Labour Court computing the amount in terms of monetary relief for the respondent is not sustainable. Hence, the order dated 16.07.2018 passed by the Labour Court, Coimbatore, in C.P.No.575 of 2013 is liable to be set aside and it is set aside.



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7. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petition is closed.

02.04.2025

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

To
The Labour Court, Coimbatore.



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M.DHANDAPANI, J.

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