IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2015

CORAM

THE HONOURABLE MR. JUSTICE **P.DHANABAL**

W.P.No.39018 of 2015
and MP.No.1 of 2015

The General Manager,
TNSTC Villupuram, Division – II Limited,
Regional Office, Rangapuram,
Vellore – 632 009. .. Petitioner

Vs.

1.V.Selvaraj

2.The Presiding Officer,
Principal Labour Court,
Vellore. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, pleased to issue a Writ of Certiorari, calling for the records of the order passed by the 2nd respondent in C.P.No. 300 of 2014 dated 01.07.2015 and to quash the same.

For Petitioner : Mr.M.Aswin, Senior Counsel
for Mr.A.Antony Arokia Raja
For Respondents : Mr.S.Apunu, for R1
Court - R2

ORDER

This writ petition has been filed by the petitioner challenging the order passed in C.P.No.300 of 2014 dated 01.07.2015 on the file of Principal Labour Court, Vellore, Vellore District.

2. The short facts of the case necessary to dispose of this Writ petition are as follows:-

The petitioner, is the General Manager of the Tamilnadu State Transport Corporation (VPM) Ltd, Vellore region. The 1st respondent is the driver of the petitioner's corporation who retired on 30.04.2014 on superannuation. The 1st respondent claimed that his last drawn salary was Rs.36,720/- and he is entitled to encashment of earned leave for 8 months. Therefore, he claimed a sum of Rs.2,45,760/- and filed a claim petition in C.P.No.300 of 2014 before the Labour Court. The petitioner relied on the earned leave credited to the workman for 8 months and stated that he has only 23 days earned leave in his credit and his last drawn salary is Rs.29,720/-, and thereby, ready to pay an amount of Rs.22,413/- towards encashment of earned leave salary. The Labour Court after hearing both sides, partly allowed the claim petition and directed the writ petitioner to pay a sum of Rs.47,104/- holding that the petitioner has a credit of 46 days in his earned leave account and that his last drawn pay is Rs,30,720/-. Challenging the said order, the present writ petition has been filed by the management.

3. The learned counsel appearing for the petitioner would submit that the first respondent was working as a driver in the petitioner's corporation and he retired on 30.04.2014, due to superannuation. At the time of retirement, benefits were settled to him, and his last drawn pay was Rs.29,720/-. However, the Labour Court incorrectly calculated the monthly salary as Rs.30,720/- per month, and the petitioner has 46 days of earned leave in his credit, and directed the writ petitioner to pay a sum of Rs.47,104/-. In fact, the second respondent has only 23 days earned leave in his credit, at the time of retirement, and his last drawn pay was Rs.29,720/-. Therefore, the order passed by the Labour Court is liable to be set aside.

3. The learned counsel appearing for the first respondent would submit that the first respondent had been working as a driver for

the past 26 years in the petitioner's corporation and he retired on 30.04.2014, due to superannuation. His last drawn salary was Rs.36,720/- per month and he is entitled to encashment of earned leave for 8 monhts. Therefore, he is entitled to Rs.2,45,760/- and the same was not paid by the petitioner management. Hence, he filed a claim petition before the Labour Court and the Labour Court only awarded a sum of Rs.47,104/- by holding that the earned leave available in the credit of the first respondent is only 46 days and his last drawn pay is Rs.30,720/-. The Labour Court, after perusing the Ex.P.2 series, found that the petitioner had only 46 days earned leave in his credit as on date of April 2014. He got retirement on 30.04.2014. Therefore, by taking the earned leave for 46 days, the amount was calculated and the order was passed. Hence, the order passed by the Labour Court is in order and the present writ petition is liable to be dismissed.

4. This Court heard both sides and perused the materials available on record.

5. In this case, it is an admitted fact that the first respondent

was working as a driver in the writ petitioner's corporation and he retired on superannuation on 30.04.2014. According to the writ petitioner, the first respondent had only 23 days of earned leave in his credit and his last drawn salary was Rs.29,720/-. Therefore, he is only entitled to Rs.22,413/-. According to the first respondent, his last drawn salary is Rs,36,720/- and as per the records maintained by the writ petitioner, the available earned leave in the credit of the first respondent is 46 days. Therefore, the Labour Court computed the amount based on the records. This Court perused the entire records, and as per the records, Ex.P.2 series, the available earned leave in the credit of the first respondent is only 46 days, and his last drawn pay is Rs.30,720/- and the same has not been denied by the writ petitioner.

6. However, the grievance of the writ petitioner is that the Labour Court has included the HRA in the last pay drawn. According to the writ petitioner, the HRA cannot be included in the last drawn salary for calculating the earned leave encashment and HRA has to be deducted. In this context, it is pertinent to note that at the time of filing of the proof affidavit, the writ petitioner himself admitted that the earned

leave surrender value is equal to Basic pay + Grade pay + D.A + HRA) x number of days / 30 days and calculated for 23 days as Rs.22,413/-. Therefore, the management writ petitioner himself admitted while calculating the earned leave that the H.R.A also to be included. Therefore, the argument of the learned counsel for the writ petitioner that the Labour Court has erroneously included the D.A, is not acceptable one and the writ petitioner is estopped from raising this contention. Once, the writ petitioner admitted to pay a sum of Rs.22,413/- for 23 days, by including the H.R.A., later they cannot deny that the HRA cannot be included. Since, as per the Ex.P.2 series, there are 46 days of earned leave in the credit of the first respondent, the management is liable to pay the encashment of earned leave for 46 days. In this context, the Labour Court, after analysing the evidence on both sides, correctly computed the amount for 46 days for the encashment of earned leave. Therefore, the order passed by the Labour Court is in order and there is no illegality or infirmity in the order passed by the Labour Court. Therefore, it does not warrant interference.

6. In view of the above said discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed. According, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.01.2025

Index: Yes/No.
Internet/Yes/No
drl

To

1. The Presiding Officer,
   Principal Labour Court,
   Vellore.

P.DHANABAL.J.

drl

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