



W.P.No.14029 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.14029 of 2019
and
W.M.P.No.14083 of 2019

The Management of
Tamil Nadu State Transport Corporation,
(CBE) Ltd.,
Represented by its General Manager,
Registered Office, No.37, Mettupalayam Salai,
Coimbatore – 641 043. ... Petitioner

Vs.

1.The Labour Court,
Coimbatore,
Coimbatore District.

2.M.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 of the 1st respondent in C.P.No.4 of 2019 order dated 02.01.2019 and quash the same.



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For Petitioner : Mr.A.Sundara Vadhanan

For Respondents : Labour Court [R1]
Mr.R.Chandrasekaran [R2]

ORDER

This Writ Petition has been filed challenging the computation petition in C.P.No.4 of 2019 dated 02.01.2019, pending on the file of the 1st respondent / Labour Court, Coimbatore.

2. The second respondent / workman was employed as Conductor in the petitioner Transport Corporation and he was absent from service for the period from 11.11.2001, without any prior intimation or any application for leave. The petitioner Corporation initiated disciplinary proceedings by appointing an Enquiry Officer, and conducting enquiry and providing sufficient opportunity to the second respondent to submit his reply, the second respondent was terminated from service vide order dated 04.03.2002. According to the petitioner, the second respondent is an habitual absentee and further he has not properly accounted the collection and shortage in collection, for which various charge memos were issued and penalty was imposed. According to the petitioner, since



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the second respondent has not preferred any appeal within the statutory period of 60 days, the termination order has reached finality and there was no necessity to file an approval petition and there was no dispute pending on the day of the order passed on 04.03.2002. Thereafter, the second respondent / workman have filed a computation petition in C.P.No.4 of 2019 dated 02.01.2019 on the file of the first respondent under Section 33(2)(b) of the Industrial Disputes Act, 1947 (in short 'the ID Act') claiming backwages for a sum of Rs.17,52,335/- for the period from 11.11.2001 to 31.12.2018. Challenging the aforesaid proceedings pending before the first respondent / Labour Court, the petitioner Management has filed the present writ petition.

3. The learned counsel appearing for the petitioner contended that the commutation petition filed by the second respondent / workman is liable to be dismissed on the ground of delay, since the same has been filed after a period of 17 years from the date of termination of the second respondent. Further he contended that since the second respondent has not filed an appeal before the Managing Director, Tamil Nadu State Transport Corporation, as against the termination order, he cannot now



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claim a right after a period of 17 years on the ground that the approval petition was not filed by the petitioner Management and therefore, prays for quashing the impugned proceedings pending on the file of the first respondent / Labour Court.

4. Per contra, learned counsel appearing for the second respondent submits that the order of termination passed by the petitioner was not approved by the approval authority. In such circumstances only, the second respondent has filed the computation petition before the labour court seeking a sum of Rs.17,52,335/-, which is perfectly in order and the same does not requires any interference. Accordingly, he prays for dismissal of the writ petition.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. The main aim of the Section 33(C)(2) is only 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.



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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. Therefore, 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.

7. In the present case, the petitioner management has terminated the second respondent on 04.03.2002, against which, the second respondent has not preferred any appeal before the appellate authority, however he had filed a computation petition before the labour court after a lapse of 17 years from the date of his dismissal from service and the same is still pending. In view of the fact that there is no pre-existing rights available to the second respondent / workman to claim such amount by way of CP before the labour, the CP filed by the second respondent / workman is not maintainable.



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8. Accordingly, this Writ Petition is allowed and the impugned proceedings in C.P.No.4 of 2019 pending on the file of the first respondent / Labour Court stands dismissed as not maintainable. The second respondent is at liberty to workout the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petition is closed.

02.04.2025

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

To

The Labour Court,
Coimbatore,
Coimbatore District.



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M.DHANDAPANI, J.

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