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W.P. No.15207 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.15207 of 2022

and

W.M.P. No.14381 of 2022

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Limited,
No.12, Ramakrishna Road
Salem-7.

.. Petitioner

vs.

Nallathambi S/o. Ramaswamy. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records in C.P. No.90 of 2018 on the file of the Labour Court, Salem dated 13.12.2021 and quash the same.

For Petitioner : Mr. K. Rajan

For Respondent : Mr. K.V. Shanmuganathan

ORDER

This Writ petition has been filed by the petitioner Management to quash



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the award passed in C.P. No.90 of 2018 dated 13.12.2021 on the file of the Labour Court, Salem, wherein, the respondent herein filed a Computation petition before the Labour Court and the Labour Court computed the amount. Aggrieved over the same, the Management has filed the present Writ petition.

2. The learned counsel appearing for the petitioner Management would submit that the respondent was an erstwhile employee of the Management and he was appointed on 16.02.2008 and he resigned his job on 23.02.2017 and the same was accepted by the Management on 23.04.2017. Thereafter, the respondent filed a Computation petition before the Labour Court under Section 33C(2) of the Industrial Disputes Act in C.P. No.90 of 2018. Before the Labour Court, the respondent claimed a total amount of Rs.4,91,333/- under the heads of CPS, Leave Surrender, SWF - Social Welfare Fund, FBF - Family Benefit Fund, ERBS - Employees Retirement Benefit Scheme and IRTT. The Management disputed the above said calculation made by the respondent. Since he resigned his job, he is not entitled to Social Welfare Fund and Family Benefit Fund and he is only entitled to ERBS for a sum of Rs.6,000/-. His CPS amount would come to the tune of Rs.1,23,668/- and therefore, the petitioner is entitled to interest for the said amount. In total, he was entitled to Rs.3,41,346/- and the same was also accepted by the Labour

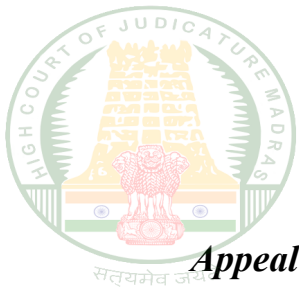


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Court. However, the Labour Court erroneously allowed to pay a sum of Rs.25,000/- towards Social Welfare Fund, Rs.10,000/- towards Family Benefit Fund, Rs.12,000/- for Employees Retirement Benefit Scheme.

2.1. As far as the Social Welfare Fund is concerned, the eligibility criterias are (i) Employee retired from service, (ii) An employee submitted his voluntary resignation, under a Scheme formulated by the petitioner Corporation and (iii) an employee who has died during the employment, the same will be paid to his legal representatives. As far as the Family Benefit Fund is concerned, only those employees who had died while in employment in the Petitioner Corporation alone eligible to get the amount under this Scheme. As far as the ERBS is concerned, as per the Scheme what was contributed under this Scheme is only Rs.6,500/- and not Rs.12,000/-. The contributed amount alone can be repaid to the beneficiary. But the Labour Court had erroneously allowed the above said funds. Therefore, the order passed by the Labour Court is liable to be set aside.

2.2. In support of his contention, the learned counsel appearing for the petitioner has relied upon judgment of Hon'ble Supreme Court in ***BSES Yamuna Power Ltd., v. Sh. Ghanshyam Chand Sharma & Anr. in Civil***



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3. The learned counsel appearing for the respondent would submit that he filed a Computation petition to disburse the retirement benefits viz., a sum of Rs.4,24,000/- towards CPS, Leave Surrender for Rs.15,333/-, SWF for a sum of Rs.25,000/-, FBF - Rs.10,000/-, ERBS for a sum of Rs.12,000/-and IRTT - Rs.5,000/-, totally a sum of Rs.4,91,333/-, but the Labour Court after considering the calculations made by the petitioner, awarded only a sum of Rs.4,09,719/- under the heads of CPS - Rs.3,41,346/-, Leave Surrender - Rs.15,333/-, SWF - Rs.25,000/-, FBF - Rs.10,000/-, ERBS - Rs.12,000/- and IRTT - Rs.5,500/-. As per the Scheme for Social Welfare Fund, there was a subscription of Rs.5/- deducted from the salary of the employee. Therefore, the persons who retired voluntarily and the legal heirs of the deceased are entitled to the amount and for other reasons, who are all sent by the Management or sent voluntarily are not entitled to the amount. The respondent was not sent out from the employment due to any charges and he voluntarily resigned his job. Therefore, the respondent is entitled for the Social Welfare Fund. Therefore, the Labour Court has passed a reasoned order and there is no any perverse in passing the impugned order. Therefore, the present Writ petition is liable to be dismissed.

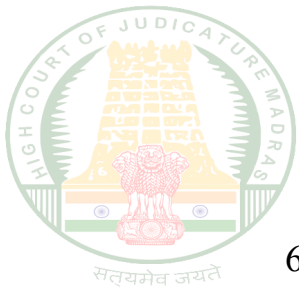


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4. Heard both sides and perused the entire materials available on record.

5. In this case, there is no dispute that the respondent is entitled to retirement benefits and the respondent claimed CPS amount of Rs.4,24,000/- and the same was disputed by the Management and the Management calculated to Rs.3,41,346/- and the same was also accepted by the Labour Court and the respondent has not disputed the said amount and no any challenge for the above said amount. The respondent claimed Leave Surrender for a sum of Rs.15,333/- and the Management denied the said amount. As per the Management, the petitioner had only Rs.12.5 days in his credit as Earned Leave and thereby, he can only surrender for the said leave period and he is only entitled to Rs.9,496/-. There are no records produced by the respondent to show his leave credit, thereby, the Labour Court has allowed the said amount as claimed by the respondent. As far as the Social Welfare Fund, Family Benefit Fund and ERBS are concerned, the Labour Court correctly interpreted the Circular in Clause IV, Ex.M.4. and allowed the amount of Rs.25,000/- under the head of Social Welfare Fund.



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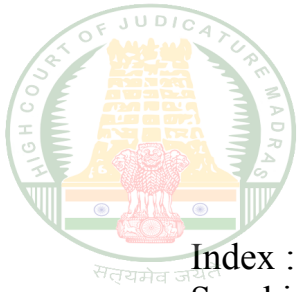
6. The learned counsel appearing for the petitioner has relied upon judgment of Hon'ble Supreme Court in ***BSES Yamuna Power Ltd., v. Sh. Ghanshyam Chand Sharma & Anr. in Civil Appeal No.9076 of 2019.***

On a careful perusal of the above judgement, it is clear that there is a distinction between the concept of 'resignation' and 'voluntary retirement'. In this case, there is no dispute that the employee resigned his job. There is no punishment awarded to the respondent and he has voluntarily resigned his job. Therefore, Clause IV of the Circular has been rightly interpreted by the Labour Court that the respondent was not sent out from the employment due to any charge, thereby he is entitled to Social Welfare Fund and other funds. Therefore, the Labour Court has passed a reasoned order and it does not warrant interference.

7. In view of the above said discussions, this Court is of the opinion that this petition has no merits and deserves to be dismissed.

8. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order/non-speaking order
mjs

To

The Presiding Officer,
The Labour Court, Salem

P. DHANABAL, J.,

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