



W.P. No.19336 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.19336 of 2022
and W.M.P. No.18611 of 2022

The Management,
Tamil Nadu State Transport Corporation,
(Coimbatore Zone-1), Coimbatore. .. Petitioner

vs.

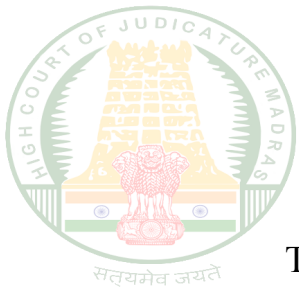
Nethaji Pookuvarathu Thozhilalargal Pathukappu
Thozhil Sangam,
represented by its State General Secretary,
M. Anburaj,
No.94, Karuparayan Kovil Street,
Puliyakulam, Coimbatore - 641 045. .. Respondent

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 I.D. No.51 of 2018 on the file of the Principal Labour Court, Coimbatore pursuant to the order dated 30.11.2020 and to quash the same.

For Petitioner : Mr. Sundara Vadhanan

For Respondent : No appearance

ORDER



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This Writ petition has been filed as against the order passed by the Principal Labour Court, Coimbatore in I.D. No.51 of 2018 dated 30.11.2020, wherein, the respondent herein has raised an industrial dispute and the same was allowed by directing the Writ petitioner to grant review benefits of the workman / Driver Tr. R. Selvaraj from 04.09.1999. Aggrieved by the said order, the present Writ petition has been filed by the petitioner Management.

2. The learned counsel for the petitioner would submit that the Member of the respondent Union namely R. Selvaraj was working as a 'driver' in the Petitioner Management and he joined duty on 04.09.1993 and his date of first level review period (after 6 years) was on 04.09.1999, but no review benefits were given to him, due to the punishment suffered by the driver. Therefore, he raised an industrial dispute before the Principal Labour Court, Coimbatore. The Labour Court adjudicated the dispute by directing the petitioner Management to give first review benefits to the workman from 04.09.1999 by awarding 5% of hike in his salary within 2 months, failing which, 9% interest was awarded.

2.1. The review benefits were postponed to the employee due to

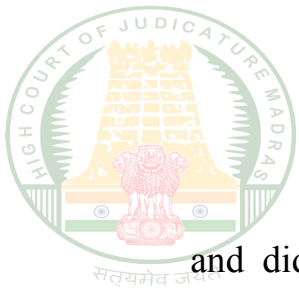


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ineligible working days from 04.09.1993 to 04/2005 i.e., 113 days.

Therefore, his due would come on 27.12.1999. Thereafter, the punishment was awarded to him by 'stoppage of one annual increment', thereby his due was on 27.03.2005. The qualifying quarterly period for review was on 01.05.2005. The punishments imposed from 04.09.1993 to 30.04.2005 as per norms, postponed quarterly period. **Therefore, First level review benefits were paid to the workman on 01.08.2012. The respondent without any protest received his first review benefits on 17.10.2012 and now raised the industrial dispute in the year 2018 after a long period without any explanation.**

2.2. As per the Common Service Rules of the petitioner Corporation, while paying the review benefits, the LLP days and increment to be given to the workers and postponement because of the punishments will be considered as per Rule 61 of the Common Service Rules. The petitioner Transport Corporation is following the Rule 61 of Common Service Rules and the workers will get their review benefits as and when they are qualified for the said review benefits based on their personal credentials and currency of the punishment. Those employees who are not imposed with any punishments



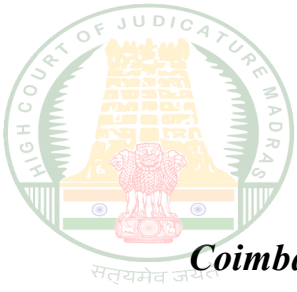
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and did not commit any offence during their work are entitled to review benefits and the respondent's request to give the review benefits to its Member is not sustainable. The Labour Court failed to consider that the review benefits are subject to punishment and it is not automatic after completion of 6 years. The Settlement between the Union and the petitioner Corporation dated 30.09.1992 which is only in respect of entitlement of the review benefits and any awarding of review benefits are subject to Common Service Rules as far as the procedures and eligibility are concerned. As per Rule 61 of the Common Service Rules, the respondent is not entitled to his first review benefits immediately after completion of 6 years because he suffered some punishments. Without considering the same, the Labour Court erroneously came to a conclusion that in the Settlement, there is no any reference about the qualification to the entitlement of the review benefits and passed the impugned order. Therefore, the order passed by the Labour Court is liable to be set aside.

2.4. In support of his contention, the learned counsel for the petitioner has relied upon the following judgments:-

1. The Management, Tamil Nadu State Transport Corporation



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Coimbatore Ltd., vs. Nethaji Transport Corporation Pathugappu

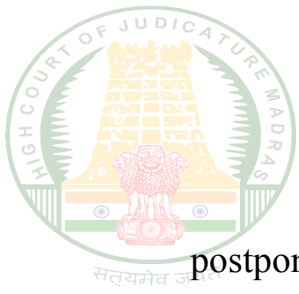
Thozhirschangam and another in W.P. Nos.2358 of 2019 and batch cases.

***2. 1. The Management, Tamil Nadu State Transport Corporation
Coimbatore Ltd., vs. Nethaji Transport Corporation Pathugappu
Thozhirschangam and another in W.P. Nos.12345 of 2019 and batch cases.***

3. No representation for the respondent, despite ample chances were given to them, none appeared.

Heard the petitioner's side and perused the entire materials available on record.

5. The petitioner Management had awarded the First Revenue Benefits to the Member of the respondent Union namely Tr. R. Selvaraj on 17.10.2012. There is no dispute that the driver was appointed on 04.09.1993 and as per the Settlement, his First Review benefits have to be extended him after completion of 6 years. According to the petitioner, the driver was awarded punishment and also has ineligible working days and thereby, his due was



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postponed and his erstwhile monetary review benefit was awarded on 17.10.2012. Before the Labour Court, the respondent has not denied the punishment awarded to the workman and according to the respondent, irrespective of any punishment awarded to the workman, the review benefits have to be extended to them immediately after reaching the interval period mentioned in the Settlement.

6. Already this Court in ***The Management, Tamil Nadu State Transport Corporation Coimbatore Ltd., vs. Nethaji Transport Corporation Pathugappu Thozhirschangam and another in W.P. Nos.2358 of 2019 and batch case***, decided after referring judgment of Hon'ble Supreme Court in ***Union of India vs. K.V. Janakiraman reported in (1991) 4 SCC 109***, that the period of punishment has to be excluded for the purpose of computation of qualifying service. In the case in ***"The Management, Tamil Nadu State Transport Corporation Coimbatore Ltd., vs. Nethaji Transport Corporation Pathugappu Thozhirschangam and another in W.P. Nos.12345 of 2019 and batch cases"***, the single Bench of this Court after referring about the Rule 61 of Common Service Rules held that the review benefit is conferred by Rule 61(a) upon completion of the prescribed length of service and the length of



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service referred to in sub-rule (a) is explained in sub-rule (b) which clearly states that certain periods have to be excluded. Punishments such as stoppage of increment with or without cumulative effect, period of suspension etc., are all enumerated in Clauses (i) to (vi) of Rule 61(b) and therefore, the Management has to go only by way of Rule 61 while calculating the entitlement of review benefit. This respondent is also a party to that Writ petition and no any appeal was preferred by the respondent. Therefore, this case is covered by the judgment of this Court as stated above. Therefore, this Court cannot take a different stand.

7. However, the Labour Court has referred the judgment of Madurai Bench of this Court in ***W.P. (MD) No.2710 of 2014 in C. Kamaraj vs. The Management of Tamil Nadu State Transport Corporation (Madurai) Limited and another dated 16.06.2015***, in which, it has been held that "*Though the respondents have relied on the Common Rules in support of their denial for non-consideration of the claim of the petitioner, the settlement 22.01.2011 clearly states that the period of service from the date of regularization has to be taken into account for extension of review benefits and it is not the case of the respondent that the said settlement is under*



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challenge or a new settlement has come into force modifying the existing clause, detrimental to the petitioner". The Labour Court has also referred judgment in W.A. (MD) Nos.465 of 2011 and a batch of cases. On a careful perusal of the above said judgments, it is clear that they will not be applicable to the present facts of the case, because in the said judgments in W.A. No.465 of 2011 and batch cases, in contrary to the Standing Orders, the recovery was made based on the Common Service Rules. In the judgment in ***W.P. (MD) No.2710 of 2014 in C. Kamaraj vs. The Management of Tamil Nadu State Transport Corporation (Madurai) Limited and another dated 16.06.2015***, it is seen that Rule 61 of the Common Service Rules has not been considered and it is not applicable to the present facts of the case because in that case, awarding of punishment itself was not justified and therefore, awarded benefit of review and it has not dealt with any applicability of the Common Service Rules. Therefore, the above said judgment cannot be taken as authoritative law, since it did not discuss about any service rules.

8. In the case on hand, as per the Common Service Rules, some conditions were provided for awarding review benefits. Therefore, those rules have to be followed and settlement has to be considered along with



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common rules. The Common Service Rules are applied to the Transport Corporation employees. Therefore, the Management has to follow the above said rules while determining the review benefits. In the Settlement, there could not be any criteria fixed for entitlement of the review benefits when there are separate Common Service Rules in respect of review benefits. Therefore, the findings of the Labour Court are not in accordance with law and the same are liable to be quashed.

9. With the above said directions, this Writ petition is ***allowed and the award passed by the Labour Court dated 30.11.2020 is quashed. The claim of the petitioner in I.D. No.51 of 2018 on the file of the Principal Labour Court 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

P. DHANABAL, J.,

mjs



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