



W.P.(MD)No.24955 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

**W.P.(MD)No.24955 of 2018
and W.M.P.(MD)Nos.22612 of 2018
and 15211 of 2021**

The General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd., Nagercoil Region,
Nagercoil, Kanyakumari District.

... Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
Office at Commissioner of Labour, Chennai-6.

2.K.Gopalakrishnan

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records from the 1st respondent special Deputy Commissioner of Labour relating to the impugned award passed by it in A.P.No. 186 of 2012 dated 12.09.2017 and quash the same.



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For Petitioner : Mr.R.Rajamohan

For Respondents : Mr.F.Deepak,
Spl. Govt. Pleader for R1
Mr.K.Hemakarhikeyan for R2

ORDER

This Writ Petition has been filed aggrieved by an order dated 12.09.2017 passed in A.P.No.186 of 2012, rejecting the application filed by the petitioner herein under Section 33(2)(b) of “the Industrial Disputes Act, 1947” (hereinafter referred to as “the ID Act”).

2. The respondent No.1, rejected the approval petition filed by the petitioner on the ground that the petitioner failed to comply with the requirement of payment of one month wages as required under the proviso to Section 33(2) (b) of the ID Act. In the impugned order, the respondent No.1 has observed that the petitioner in its argument submitted that the respondent No.2 is entitled for one month wages at the rate of basic pay + 158% DA, but paid only 58% of the DA. Thus, the respondent No.1 came to the conclusion that the petitioner herein failed to comply with the mandatory requirements as contemplated under



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Section 33(2)(b) of the ID Act. The learned counsel for the petitioner contended that the petitioner never made any submissions stating that the respondent No.2 is entitled for 158% DA. But the respondent No.1 has erroneously took the same into consideration and thereby rejected the approval petition only on the ground of non-payment of one month wages to the respondent No.2, while submitting an application under Section 33(2)(b) of the ID Act.

3. On the other hand, Mr.K.Hemakarhikeyan, learned counsel appearing for the respondent No.2 submitted that the respondent No.2 was paid subsistence allowance of Rs.7,530/- for the month of November 2011, while the respondent No.2 was placed under suspension, which is equivalent to 50% of the wages. If that is taken into consideration, the respondent No.2 would be entitled for Rs.15,060/- towards monthly wages. But the petitioner has paid only an amount of Rs.11,372/- towards one month salary, while making an application under Section 33(2)(b) of the ID Act and the same is not in compliance with the statutory requirements.



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4. This Court has carefully considered the submissions made on either side and also perused the entire materials on record.

5. No doubt, respondent No.1 has come to the conclusion that the petitioner Corporation has failed to comply with the requirement of payment of one month wages, while making an application under Section 33(2)(b) of the ID Act. But the reasoning assigned by the respondent No.1 is basing upon the arguments said to have been made on behalf of the petitioner. There is nothing on record to show that the petitioner herein has made any statement stating that respondent No.2 is entitled for 158% of DA.

6. In the light of the above, this Court is of the considered view that it is a fit case where the matter be remanded back to the respondent No.1 for fresh consideration on the limited aspect of ascertaining the quantum of wages that are payable to the respondent No.2 while making an application under Section 33(2)(b) of the ID Act by the petitioner.



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7. Accordingly, the findings recorded by the respondent No.1 on point No.2 alone is quashed and the matter is remanded back for reconsideration of the same by duly affording an opportunity to the petitioner as well as respondent No.2 to place on record the appropriate material. The first respondent is further directed to dispose of the matter on remand as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order. Pending disposal of the same, the petitioner Corporation shall continue to pay 17(b) wages that are being paid to the respondent No.2 as on date.

8. Accordingly, this Writ Petition is partly allowed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Neutral Citation: Yes / No
Index : Yes / No
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MUMMINENI SUDHEER KUMAR, J.

vsm

To

The Special Deputy Commissioner of Labour,
Office at Commissioner of Labour, Chennai-6.

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