

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:15-06-2015

CORAM:

THE HONOURABLE MR. JUSTICE SATISH K. AGNIHOTRI
AND
THE HONOURABLE MR. JUSTICE M. VENUGOPAL

W.A.No.502 of 2015

M. Soundirarajan
Driver (Reinstated)
Erumapalayam Branch - II
Near Karuppadayachi Shop
Athur Main Road
Ayothiapattinam Post
Salem District

...Appellant

Vs.

1. The Presiding Officer
Labour Court, Salem
2. The Management
Tamil Nadu State Transport Corporation
(Salem)Ltd.
12, Ramakrishna Salai
Salem - 635 007

...Respondents

Writ Appeal against the order dated 20-12-2012 passed in W.P.No.34302 of 2012.

Prayer in W.P.No.34302 of 2012:

Writ petition has been filed under Article 226 of the Constitution of India praying for issuance of Writ of certiorarified mandamus, calling for the records connected with the award dated 16.09.2008 passed by the 1st respondent in I.D.No.262 of 2005 in so far as it relates to the Award of "Break of Service from the date of dismissal till the petitioner is reinstated and the petitioner is not entitled for back wages promotion and other monetary benefits, his future increment will be accrued after completion of one year in service after reinstatement in the regular due date connecting the

previous increment before 12.5.2000" quash the same and also direct the 2nd respondent to grant the petitioner continuity of service, back wages, promotion and all other attendant incidental benefits.

For appellant : Mr. S. Girija

For respondents : Mr. P. Paramasiva Doss for R2
R1 - Court

ORDER

(Order of the Court is made by SATISH K. AGNIHOTRI, J.)

With consent, the main writ appeal is taken up for final disposal. Heard Ms. S. Girija, learned counsel for the petitioner/appellant and Mr. P. Paramasiva Doss, learned counsel for the second respondent.

2. Feeling aggrieved by the order dated 20-12-2012, passed in W.P.No.34302 of 2012, the appellant has come up with the instant appeal.

3. The only limited issue involved herein is as to whether a delay of 1460 days in filing a writ petition assailing the legality and validity of the order dated 16-09-2008 passed in I.D.No.262 of 2005 by the first respondent may be condoned.

4. The facts in brief relevant for adjudication of the instant appeal are that the Labour Court by award dated 16-09-2008 set aside the order dated 12-05-2000, passed by the second respondent with a consequential direction to reinstate the appellant in service, with break of service from the date of dismissal till the date of reinstatement and also held that he is not entitled for backwages, promotion and other monetary benefits. The management viz., the second respondent, assailing the award, preferred a writ petition, W.P.No.353 of 2010 and the same is pending. The appellant having come to know about the adjudication of the writ petition preferred by the Management, came up with the instant petition being W.P.No.34302 of 2012, after a period of four years, belatedly without proper justification for the same.

5. Mr. P. Paramasiva Doss, learned counsel appearing for the respondents would submit that even the application before the Labour Court was moved belatedly and the setting aside of the dismissal order is being challenged on that ground also.

6. Be that as it may, since the issue in respect of dismissal and consequential relief is pending consideration in other writ petition, the strict requirement of proper justification for condonation of delay may not be adhered to. Accordingly, we condone the delay setting aside the order dated 20-12-2012, passed in W.P.No.34302 of 2012 rendered by the learned Single Judge and remit back the matter to be heard along with W.P.No.353 of 2010, filed by the Management, pending before the learned Single Judge, on merit and as per law.

7. The writ appeal is allowed, accordingly. No costs.

Sd/-
Deputy Registrar(J)

//True Copy//

Sub Assistant Registrar

glp

To

1. The Presiding Officer
Labour Court, Salem
2. The Management
Tamil Nadu State Transport Corporation
(Salem)Ltd.
12, Ramakrishna Salai
Salem - 635 007

1 CC to Mr. S. Girija, Advocate SR.No. 29406

1 CC to Mr. P. Paramasiva Doss, Advocate SR.No. 30024

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W.A.No.502 of 2015

SVI (CO)
PSI (24.06.2015)