

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03-02-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.22882 & 38137 OF 2003

W.P.No.22882 of 2003 :

The Management,
Tamilnadu State Transport Corporation
(Coimbatore Div-II) Ltd.,
Chennimalai Road,
Erode-638 001.

... Petitioner

-Vs-

1. The Presiding Officer,
Labour Court,
Salem Camp at Erode.

2. G.Vasudevan

... Respondents

W.P.No.38137 of 2003 :

G.Vasudevan

... Petitioner

-Vs-

1. The Presiding Officer,
Labour Court,
Salem.

2. The Management,
Tamilnadu State Transport Corporation
(Coimbatore Div-II) Ltd.,
Erode-638 001.

... Respondents

W.P.No.22882 of 2003 has been filed, praying for issuance of a writ of certiorari, to call for the records pertaining to the award, dated 08.04.2002, passed in I.D.No.816 of 1998 on the file of Labour Court, Salem Camp at Erode, and quash the same.

W.P.No.38137 of 2003 has been filed, prayng for issuance of a writ of certiorarified mandamus, to call for the records relating to the award, dated 08.04.2002, passed by the first respondent in I.D.No.816 of 1998, quash the same in so far as depriving the petitioner the backwages and other attendant benefits and imposing the punishment of withholding of two increments with cumulative effect upon the petitioner's reinstatement, and consequently direct the second respondent to pay the petitioner backwages and other attendant benefits.

For petitioner in W.P.No.22882 of 2003
& respondent 2 in W.P.No.38137 of 2003 : Mr.T.Chandrasekaran

For respondent 2 in W.P.No.22882 of 2003
& petitioner in W.P.No.38137 of 2003 : Mr.V.Ajay Khose

C O M M O N O R D E R

The management and the workman have filed these Writ Petitions, challenging the award of the Labour Court, Salem, passed in I.D.No.816 of 1998, dated 08.04.2002.

2. So far as the Writ Petition filed by the management is concerned, there is nothing to be adjudicated further, as, in terms of the award, the employee has been reinstated, with continuity of service, and his pay has also been fixed on par with a similarly placed employee, and he is drawing the current wages. Therefore, W.P.No.22882 of 2003 is closed.

3. As regards the claim for backwages in W.P.No.38137 of 2003, learned counsel for the petitioner would submit, that the petitioner is not insisting upon the claim for backwages, but, his only request is, with regard to taking into consideration the period of non-employment, for the purpose of calculating the length of service, for becoming eligible for pension.

4. It is submitted, that since pension being contributory, though continuity of service has been ordered by the Labour Court and the same is implemented by the management, the same would be reckoned only for the purpose of computing gratuity, and not for computing the length of service for pension, as only the employer has to contribute the amount, which will be transferred to the pension fund.

5. The above submission appears to be reasonable. However, since this Court is confirming the award in its entirety, by closing the Writ Petition No.22882 of 2003, filed by the management, and dismissing the one in W.P.No.38137 of 2003, filed by the workman, liberty is granted to the workman, to file a separate representation to the management, requesting for treating the period of non-employment for the purpose of reckoning the length of service for eligibility for pension. This Court is inclined to make such an observation, in the light of the fact, that the award of the Labour Court is one of reinstatement with continuity of service. Therefore, under normal circumstances, it should enure to the benefit of the workman, for all purposes. The management shall consider the representation of the petitioner, taking note of the observation made hereinabove, and pass appropriate orders thereon, within a period of six weeks from the date of receipt of the said representation.

6. In the result, while W.P.No.22992 of 2003 is closed,
W.P.No.38137 of 2003 is dismissed, as above. No Costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dixit

To

1. The Presiding Officer,
Labour Court,
Salem.
2. The Management,
Tamilnadu State Transport Corporation
(Coimbatore Div-II) Ltd.,
Erode-638 001.
3. The Section Officer,
VR Section,
High Court, Madras. [31/05/2016]

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.7315

+1cc to Mr.T.Chandrasekaran, Advocate, S.R.No.7167

W.P.Nos.22882 & 38137 OF 2003

SK(CO)
CA(15/02/2016)

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