

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2017

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1123 of 2017
and
C.M.P.No.15651 of 2017

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division III) Ltd.,
Kancheepuram.

... Appellant

-vs-

1.P.Pushpanathan

2.The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-600 104.

... Respondents

Appeal filed under Clause 15 of the Letters Patent, against
the order passed by this Court in M.P.No.1 of 2013 in W.P.No.9643 of
2012 dated 24.02.2017.

For Appellant :: Mr.P.Paramasiva Doss

For Respondents :: Mr.P.Vijendran for R1

JUDGMENT

(Judgment of the Court was delivered by
HULUVADI G.RAMESH, J.)

This writ appeal is filed against the interim order passed by this Court in M.P.No.1 of 2013 in W.P.No.9643 of 2012 dated 24.02.2017.

2.On the allegation of unauthorised absence, departmental proceedings were initiated against the first respondent employee and ultimately he was removed from service on 03.03.1999. The employee assailed the matter before the second respondent Labour Court and the Labour Court, by order 12.09.2011 in I.D.No.246 of 2006, passed an award in favour of the employee, ordering reinstatement without backwages. Aggrieved by the same, the Transport Corporation has filed W.P.No.9643 of 2012 in which an order of interim stay was granted and pursuant to the same the employee was reinstated in service as Conductor in the Transport Corporation. Thereafter, a miscellaneous petition in M.P.No.1 of 2013 was filed by the employee in the said writ petition for a direction to the Transport Corporation to pay current wages to the first respondent on par with similarly placed employees and also to pay the arrears from the date of his reinstatement, and the same was allowed by this Court. Challenging the said order dated 24.02.2017, the present writ appeal has been filed.

3.We have heard the learned counsel appearing for the appellant and the learned counsel appearing for the first respondent employee and perused the materials available on record.

4.This appeal is filed against the interim order passed in M.P.No.1 of 2013 in W.P.No.9643 of 2012 dated 24.02.2017, wherein a direction was given to pay current wages to the first respondent on par with similarly placed employees and also to pay the arrears from the date of his reinstatement. The facts of the case would disclose that the first respondent was on unauthorised absence and after conducting enquiry, he was dismissed from service. The matter was challenged before the second respondent Labour Court in which an order was passed granting the relief of continuity of service and reinstatement. The said order was challenged before this Court in W.P.No.9643 of 2012. In the said writ petition, M.P.No.1 of 2013 was filed by the first respondent employee for a direction to the Transport Corporation to pay current wages to him on par with similarly placed employees and also to pay the arrears from the date of his reinstatement, and the same was allowed by this Court.

5.Considering the facts and circumstances, this Court is of the considered view that the relief granted by the Labour Court in respect

of continuity of service cannot be taken into consideration for all purposes. The first respondent is not entitled for any back wages. In respect of reinstatement, this Court cannot find fault with the Labour Court or the order passed by the learned single Judge of this Court. However, final order has not been passed in the writ petition and this writ appeal has been filed only against the interim order.

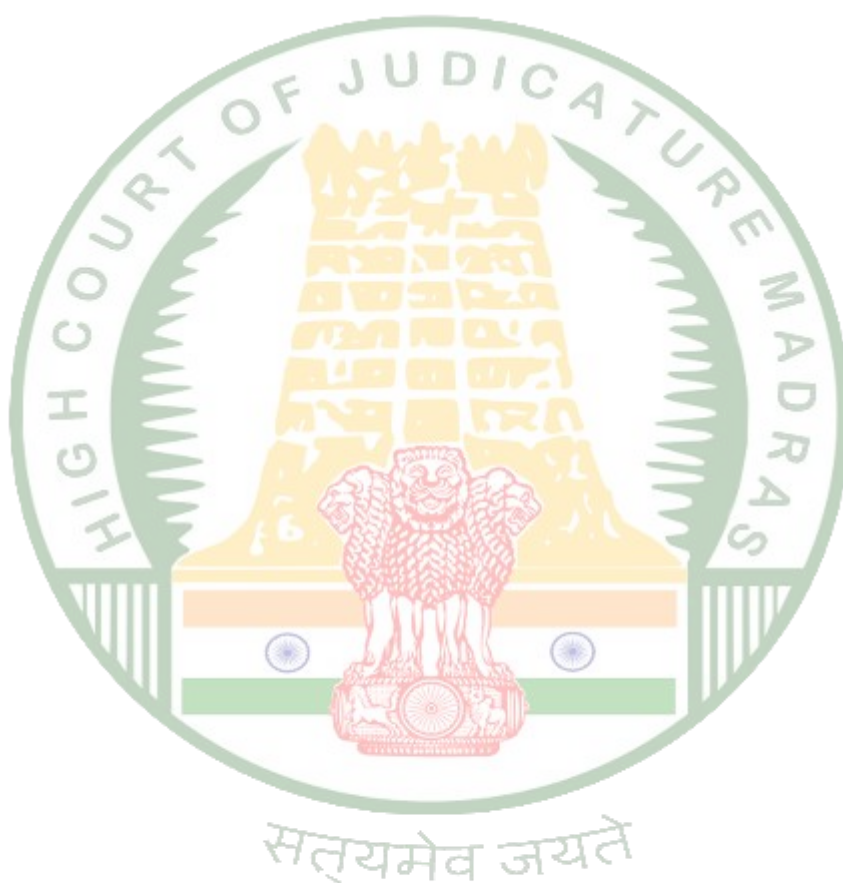
6. In the above stated circumstances, while accepting the stand taken by the Labour Court as well as the learned single Judge of this Court in the writ petition with regard to reinstatement of the employee, we hereby make it clear that the employee is not entitled for back wages or any increment between the period of dismissal and reinstatement on the principle of 'no work no pay', but is entitled for continuity of service and the same shall be taken into account only for the purpose of calculating the terminal benefits at the time of retirement. The order of the learned single Judge in M.P.No.1 of 2013 in W.P.No.9643 of 2012 dated 24.02.2017 is modified accordingly and the writ appeal stands disposed of. Consequently the connected miscellaneous petition is closed. No costs. W.P.No.9643 of 2012 shall be disposed of by the learned Single Judge on merits.

Index : Yes/No
Internet : Yes/No
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(H.G.R.,J.) (T.K.R.,J.)
10.10.2017

To

The Presiding Officer,
I Additional Labour Court,
High Court Campus,
Chennai-600 104.



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HULUVADI G.RAMESH, J.
AND
RMT.TEEKAA RAMAN, J.

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