

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.570 of 2017
and
C.M.P.No.8102 of 2017

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1. The Management of Tamilnadu State-
Transport Corporation (Salem Division-I) Ltd.,
12, Ramakrishna Road, Salem 636 007.
2. The Chairman of the Board of Director,
Transport Corporation (Salem Division-II) Ltd.,
12, Ramakrishna Road, Salem 636 007. ... Appellants
- Versus
1. The Presiding Officer,
Labour Court, Salem.
2. M.Subbarayan ... Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 17.12.2012 passed in W.P.No.29281 of 2008 on the file of this court.

W.P.No.29281 of 2008 : Praying to issue a Writ of Certiorarified Mandamus, calling for the records connected with the award dated 21.1.2004 passed by the 1st respondent in I.D.No.304/02 and the consequential unserved resolution No.55/2007-2008, passed in the General Body Meeting, held on 22.6.2007 and the order of fresh appointment dated 17.1.2008 issued by the General manager of the 2nd respondent of the Transport corporation in proceedings No.Ku.A.No.E1/40884/Tha.A.Poga(Salem)/2007-4, quash them all and also direct direct the respondents 2 & 3 to provide the petitioner an alternative employment on equal cadre post to that of conductor to which the Petitioner is considered as unfit with pay protection, continuity of service, backwages and other attendant benefits as ordained in Section 47 of the Persons with Disabilities (Equal opportunities Protection of Rights and Full Participation) Act, 1995.

For Appellant : Mr.P.Paramasivadoss

For R2 : Ms.S.Giriya

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

This appeal is filed by the Transport Corporation against the order passed by the learned Single Judge granting the relief sought for by the writ petitioner viz., the second respondent herein.

2. It appears that on account of medical grounds, the writ petitioner/second respondent herein was discharged from service as Conductor. When the matter was taken up before the Labour Court, by the writ petitioner, he was granted a partial relief of re-appointment as Helper. Aggrieved against the same, the writ petition was filed by him wherein, the learned Single has granted the relief of alternative employment with pay protection, continuity of service and backwages from the date he approached the Labour Court. This order is in challenge before this court.

3. Heard the arguments of the learned counsel appearing for the appellant and Ms.S.Giriya, learned counsel, who takes notice on behalf of the second respondent/writ petitioner.

4. The learned counsel appearing for the appellant would submit that there is a delay of nearly four years on the side of the writ petitioner in approaching the Labour Court and hence, he is not entitled to backwages.

5. Firstly, the discharge of the petitioner from service is not on the basis of any misconduct, but, only on medical invalidation. Further, the delay on the part of the writ petitioner in approaching the Labour Court has been rightly considered by the learned Single Judge in para 10 of the order to reject the claim of backwages from 19.2.1998 to 12.3.2002 viz., from the date of discharge till the date of his approaching the Labour Court, but, it has been rightly held that he cannot be denied backwages on and from the date when he has approached the Labour Court. Therefore, the order of the learned Single Judge is in tact.

6. However, considering the facts and circumstances of the case and in the interest of justice, the order of the learned Single Judge is modified only to the extent that the backwages granted by the learned Single Judge is reduced to 50%. Rest of the order passed by the learned Single Judge holds good and it

shall be complied within a period of eight weeks from the date of receipt of a copy of this judgment. The writ appeal is disposed of accordingly. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

ssk.

To:

1. The Presiding Officer,
Labour Court, Salem.
2. The Management of Tamilnadu State-
Transport Corporation (Salem Division-I) Ltd.,
12, Ramakrishna Road, Salem 636 007.
3. The Chairman of the Board of Director,
Transport Corporation (Salem Division-II) Ltd.,
12, Ramkrishna Road, Salem 636 007.

+1cc to Mr.S.Girija, Advocate, S.R.No.39372

W.A.No.570 of 2017

NR I(CO)
CA(27/06/2017)

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