

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2017

CORAM

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

W.A.No.760 of 2017
and
C.M.P.No.10438 of 2017

Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Vellore Region, rep.by its
General Manager, Vellore. ... Appellant

-Vs-

1.The Presiding Officer,
Labour Court, Vellore.
2.S.Varadan ... Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.12415 of 2006 dated 15.03.2016, praying for issuance of a Writ of Certiorari, to call for the records of the 1st Respondent in I.D.No.182 of 2002 dated 10.03.2005 and quash the same.

For Appellant : Mr.P.Paramasiva Doss

For Respondents : Mr.A.Ilayaperumal for R2

JUDGMENT

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

This writ appeal has been filed against the order passed by this Court dated 15.03.2016 in W.P.No.12415 of 2006 confirming the order passed by the first respondent-Labour Court reinstating the workman with continuity of service, but without backwages.

2.The second respondent herein was employed as Conductor by the appellant Transport Corporation in the year 1979 and he was dismissed from service by order dated 19.05.2001 on the basis of enquiry conducted on certain allegations. Aggrieved by the same, the second respondent moved the first respondent-Labour Court in

I.D.No.182 of 2002. The Labour Court passed an award on 10.03.2005 reinstating the workman with continuity of service, but without backwages. Challenging the same, the Transport Corporation filed a writ petition in W.P.No.12415 of 2006 before this Court and the same was dismissed on 15.03.2016 with a direction to the Transport Corporation to pay the benefits to the second respondent as per the award passed by the Labour Court, within a period of six weeks from the date of receipt of a copy of the order. Challenging the same, the present writ appeal is filed by the appellant-Corporation.

3.The learned counsel for the appellant-Transport Corporation has submitted that the Labour Court, having held that the charges against the second respondent have been proved, erred in interfering with the punishment imposed by the Management. He also submitted that the learned single Judge of this Court and the Labour Court have failed to see that the Industrial Courts would not sit in appeal over the decision of the employer unless there exists a statutory provision in this behalf and such a provision can be traced to an extent of Section 11-A of the Industrial Disputes Act, 1947. Stating so, the learned counsel for the appellant prayed for quashing the order passed by the learned single Judge.

4.The learned counsel for the second respondent has submitted that the learned single Judge has taken into consideration the facts and circumstances of the case and passed the order impugned, confirming reinstatement of the second respondent with continuity of service, but without backwages and hence the same does not require any interference.

5.Heard the learned counsel on either side and perused the materials available on record.

6.The main ground put forth by the learned counsel for the appellant is that even though the Labour Court has given a finding that the charges against the second respondent have been proved, it is not proper on the part of the Labour Court to set aside the order of dismissal passed by the Management, and this Court has erred in confirming the order passed by the Labour Court. It is his further submission that the dismissal of the writ petition by the learned single Judge on the ground that the Transport Corporation was not able to state as to why at least the driver of the vehicle was not examined and why no effort was taken to send letters to the passengers, particularly when the Conductor made a request in this regard to the disciplinary authority, is not correct.

7.Considering the fact that the second respondent has retired from service even in the year 2013 and also in view of the facts and circumstances of the case, this Court deems it fit to modify the order passed by this Court confirming the order passed by the Labour Court, to the effect that there shall be an

order of stoppage of increment for two years without cumulative effect, in respect of the second respondent herein. It is made clear that the second respondent is entitled for continuity of service, but without backwages, as per the order passed by the Labour Court, which has been confirmed by this Court in the writ petition. The appellant-Corporation is directed to pay the terminal and other benefits to the second respondent to which he is entitled to, after taking into account the above said punishment, within a period of three months from the date of receipt of a copy of this judgment.

8.The writ appeal is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

KM

To

The Presiding Officer,
Labour Court,
Vellore.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.64243
+1cc to Mr.A.Ilayaperumal, Advocate, S.R.No.63510

W.A.No.760 of 2017
and

C.M.P.No.10438 of 2017

CS IV
CA(20/09/2017)

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