

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2018

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE P.VELMURUGAN

W.A.No.1247 of 2011
and
WP.NO.1105/2003
and M.P.No.1 of 2011

The Management of
Tamil Nadu State Transport Corporation
(Villupuram Division-II) Ltd.
(formerly known as Pattukkottai Azhagiri
Transport Corporation Ltd.)
Rangapuram, Vellore 9. ... Appellant/Petitioner

Vs

1.M.Shanmugam
2.The Presiding Officer
Labour Court
Vellore. ... Respondents/Respondent

Prayer:- Writ Appeal filed under Clause 15 of Letters Patent
Act, to set aside the order passed by this Court in W.P.No.1105
of 2003 dated 03.11.2008.

WP.NO.1105/2003:

This Writ Petition has been filed seeking for a Writ of
Certiorari, calling for the records dated 17.5.2002 made in
I.D.No.109/1997 on the file of the 2nd respondent and quash the
same.

For Appellant : Mr.M.Rajamathivanan
For R1 : No appearance

JUDGMENT

(Judgment of the Court was delivered by K.K.SASIDHARAN, J.)

This intra court appeal is directed against the order dated
03 November, 2008 in W.P.No.1105 of 2003, whereby and
whereunder, the learned Single Judge upheld the Award passed by
the Labour Court, Vellore directing reinstatement of the first

respondent with continuity of service, back wages and other attendant benefits.

2. We have heard the learned counsel for the appellant. None appeared on behalf of the first respondent.

3. The first respondent was an employee of the Pattukkottai Azhagiri Transport Corporation, Vellore. The appellant initiated disciplinary proceedings against the first respondent on account of his unauthorised absence for the period from 21 July, 1995 to 09 November, 1995. The Corporation issued a charge memo dated 14 November, 1995. The first respondent in his explanation submitted that on account of his sickness, he was not in a position to resume the work. The Management, after conducting enquiry, dismissed the first respondent from service by order dated 29 March, 1996.

4. The first respondent initiated a dispute before the Labour Court in I.D.No.109 of 1997. The Labour Court found that the enquiry was not conducted in a fair manner and there was violation of principles of natural justice. The Labour Court, ultimately set aside the order passed by the disciplinary authority and directed reinstatement of the first respondent into service along with all the attendant benefits, including back wages.

5. Before the writ court, the appellant contended that the Labour Court was not correct in upsetting the decision taken by the Management after conducting a fair enquiry. The learned Single Judge scanned the entire materials available on record and arrived at a conclusion that there were materials before the Labour Court to give a finding with regard to the nature of enquiry conducted against the first respondent and the violation of the principles of natural justice. The learned Single Judge, therefore, dismissed the writ petition.

6. The Labour Court is the final Court of facts. The Labour Court, in the subject case analysed the entire evidence collected by the Management and the materials produced by the first respondent and arrived at a factual conclusion that the enquiry was not conducted in a fair manner and there was violation of principles of natural justice. The finding recorded by the Labour Court cannot be set aside by exercising the power of judicial review and that too by re-appreciating the materials. We are, therefore, of the view that the learned Single Judge was correct in upholding the order setting aside the punishment.

7. The other question is as to whether the learned Single Judge was correct in awarding back wages to the first respondent.

8. The first respondent was dismissed from service on 29 March, 1996. The Award of the Labour Court was on 17 May, 2002. Therefore, it is very clear that for the period from 29 March, 1996 to 17 May, 2002, the first respondent was out of employment. There are no materials produced by the first respondent either before the Labour Court or before the Writ Court to show that he was not beneficially employed elsewhere. We are, therefore, of the view that the learned Single Judge was not correct in granting back wages.

9. In result, the order passed by the learned Single Judge to the extent it granted back wages to the first respondent is set aside. The other reliefs granted to the first respondent, including continuity of service and other benefits are confirmed.

The intra court appeal is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

gms

To

1.The Presiding Officer,
Labour Court, vellore.

+1cc to Mr.A.Antony Arockiaraja, Advocate sr.no.11679

W.A.No.1247 of 2011

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