



WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 05.03.2018
CORAM**

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND**

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD) .No.271 of 2018

and

C.M.P. (MD) .No.1615 of 2018

The Management,
Tamil Nadu State Transport
Corporation (Kumbakonam Division II) Limited,
Rep by its Managing Director,
Periyamilaguparai,
Tiruchirapalli. .. Appellant /Petitioner/Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Tiruchirapalli.

2. G.Thiyagarajan ... 2nd Respondent /2nd Respondent/
2nd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
against the order passed by this Court in M.P.(MD).No.1 of 2015 in
W.P.(MD).No.23558 of 2015 dated 04.01.2016.

Prayer in MP(MD). 1/ 2015 in WP(MD).23558/2015 :

To stay the operation of the award passed by the 1st
respondent herein dated 13.11.2014 in ID.No.143 of 2002 till the
disposal of the above Writ Petition.

Prayer in WP(MD). 23558/ 2015 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue a Writ of Certiorari calling
for the records relating to the award passed by the 1st respondent
herein dated 13.11.2014 in ID.No.143 of 2002 and quash the same.

For Appellant : Mr.D.Sivaraman
For R2 : Mr.S.Arunachalam

JUDGMENT

[Judgment of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.D.Sivaraman, learned counsel appearing for the
appellant and Mr.S.Arunachalam, learned counsel appearing for the
second respondent.



2.This appeal is directed against an interim order granted in M.P.(MD).No.1 of 2015 in W.P.(MD).No.23558 of 2015, filed by the appellant Management, challenging the award passed by the Labour Court in I.D.No.143 of 2002 dated 13.11.2014, an dispute raised by the second respondent workman. The second respondent workman was dismissed from service, against which, a dispute was raised and the Labour Court by award, dated 13.11.2014, directed reinstatement of the worker, however, denied 50% of the backwages. The appellant management has challenged the award raising several contentions in the said writ petition. The workman has filed a separate writ petition in W.P.(MD).No.3479 of 2018, challenging the award of the labour Court insofar as denial of 50% backwages. Both the writ petitions are pending. The appellant is aggrieved by the direction issued by the writ Court directing the payment of pension.

3.This order virtually amounts to granting of the entire relief to the workman, when the Management has challenged the award of the Labour Court directing the reinstatement with 50% backwages. Therefore, we are inclined to interfere with the impugned order passed by the writ Court. However, we find that the workman has attained the age of superannuation in 2018 however, there is no order relieving him from service, as the appellant Management contended that the respondent workman is required to be dismissed from service. If assuming that the appellant management is successful before the writ Court, yet the respondent workman shall be entitled to the payment of his gratuity, which is for the past service rendered by the workman. Thus, the gratuity cannot be denied regardless of the challenge to the award of the Labour Court, by both the appellant as well as the respondent workmen.

4.For the above reasons, we allow the Writ Appeal and set aside the interim direction issued by the writ Court and to direct the appellant Management to settle the entire gratuity amount to the second respondent workman, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is also closed.

5.In the light of the above, the enforcement of the award passed by the Labour Court shall remain stayed, till the disposal of both the writ petitions. The Registry is directed to list W.P. (MD).No.3479 of 2018 along with W.P.(MD).No.23558 of 2015 before the appropriate Writ Court, during the third week of March 2018.

Sd/-

Assistant Registrar(CO)

/True Copy/



To

The Presiding Officer,
Labour Court,
Tiruchirapalli.

Copy to

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Sivaraman, Advocate Sr.No.52857

+1cc to Mr.S.Arunachalam, Advocate Sr.No.53072

NS

VB/SKN/RSK/SAR4/21.03.2018/3P/5C

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