



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 26.02.2018
CORAM
THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND

THE HONOURABLE MRS.JUSTICE R.THARANI
W.A. (MD) .No.226 of 2015
and
M.P. (MD) .No.2 of 2015

The Management of
Tamil Nadu State Transport Corporation (Madurai)Ltd.,
Virudhunagar Region,
Rep by its Managing Director,
Virudhunagar. .. Appellant /2nd Respondent

Vs.

1. R.Orusol Pandian ... Respondent/Writ Petitioner
2. The Presiding Officer,
Labour Court,
Madurai. ... Respondent /1st Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act,
against the order passed by this Court in W.P.(MD).No.11442 of
2010 of 2008 dated 21.02.2014.

Prayer in WP(MD). 11442/ 2010 :

Writ Petition is filed under Article 226 of the Constitution
of India, praying this Court to issue a WRIT OF CERTIORARIFIED
MANDAMUS calling for the records from the 1st respondent Labour
Court relating to the impugned award dated 27.09.07 in I.D.No.
102/1998 of the 1st respondent in so far as denying back wages and
other benefits to the petitioner, quash the same and consequently
to direct the 2nd respondent to pay him back wages for the period
of his non employment from 25.08.97 to 27.09.07 and other terminal
benefits as if the petitioner was reinstated in service with
continuity of service and all other attendant benefits and award
cost.

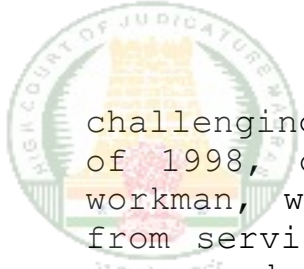
For Appellant : Mr.A.P.Muthupandian
For R1 : Mr.S.Arunachalam
For R2 : Court

JUDGMENT

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

Heard Mr.A.P.Muthupandian, learned counsel appearing for the
appellant and Mr.S.Arunachalam, learned counsel appearing for the
first respondent.

2.This appeal by the Transport Corporation is against the
<https://hcservices.ecourts.gov.in/hcservices/>
order in W.P.(MD).No.11442 of 2010, dated 21.02.2014. The said
writ petition was filed by the first respondent workman,



challenging the award of the Labour Court, Madurai, in I.D.No.102 of 1998, dated 27.09.2007, insofar as denying backwages to the workman, while holding that the order of punishment of dismissal from service is erroneous. So far as the award of reinstatement is concerned, though the appellant Management filed a separate writ petition in W.P.(MD).No.8270 of 2008, which was dismissed by a common order dated 21.02.2014, no appeal has been preferred by the appellant Management, as against that order. Therefore, we are required to see as to whether the writ Court was justified in ordering 50% of the backwages.

3. On a perusal of the award passed by the Labour Court, more particularly, the findings recorded in Paragraph No.9 of the award, we find that the Labour Court was satisfied that the appellant Management has failed to prove with evidence that the first respondent workman was the cause of the fatal accident and there was no evidence to that effect. Therefore, the Labour Court found that the punishment of dismissal from service is incorrect. Having held so, the Labour Court denied total backwages. The Writ Court, after considering the facts and circumstances of the case, exercised discretion and awarded payment of 50% of the backwages. We find that the exercise of discretion neither perverse or arbitrary. Considering the facts and circumstances of the case and the findings recorded by the Labour Court, we find that the discretion to grant 50% backwages is perfectly in order.

4. For the above reasons, the appellant Management has not made out any grounds to interfere with the order passed in the writ petition. Accordingly, the writ appeal stands dismissed. The appellant Management is directed to comply with the direction issued by the Writ Court in para No.9 of the impugned order, within a period of 8 weeks from the date of receipt of a copy of this judgment. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court,
Madurai.

+1cc to Mr.S.Arunachalam, Advocate Sr.No.51515

NS

VB/JC/SAR4/15/03/2018/2P/3C

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and**

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