



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 08.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.13448 of 2014

R.Thesingu Pandi

... Petitioner

Vs.

1.General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Karaikudi Region, Karaikudi.

2.The Presiding Officer,
Labour Court,
Madurai.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned award passed by the second respondent in I.D.No.11 of 2009 dated 19.04.2012 and quash the same in so far as the denial of continuity service for the period from the date of dismissal till the date of raising dispute before the Labour Officer and consequently directing the second respondent to reinstate the petitioner with all attendant benefits and continuity of service from the date of dismissal.

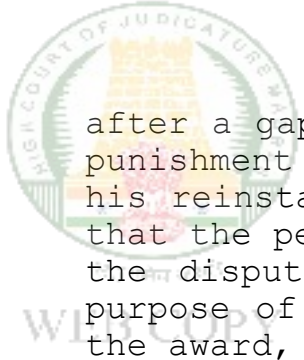
For Petitioner	: Mr.M.Maharajan
For Respondent-1	: Mr.D.Sivaraman
For R2	: Labour Court

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was appointed as a Conductor in the first respondent corporation in the year 1996. He became a permanent staff in the year 1997. While on duty, on 06.04.2004, the issuance of a ticket for Rs.13/- became subject matter of disciplinary action. The charge against the petitioner was that he issued an used ticket after collecting the fare from the passenger. Domestic enquiry was conducted. The charges were held to be proved and the petitioner was removed from service by order dated 17.12.2004.

3.Aggrieved by the same, the petitioner filed an appeal before the appellate authority. The appellate authority dismissed the appeal on 18.10.2005. The writ petitioner filed ID.No.11 of 2009



after a gap of four years. The Labour Court took the view that the punishment imposed on the petitioner was not justified. It directed his reinstatement. But, while doing so, the Labour Court also held that the period from the date of dismissal till the date of raising the dispute before the Labour Court will not be counted for the purpose of continuity of service. Aggrieved by this portion of the award, the employee has filed this writ petition.

4.The learned standing counsel for the management submits that the impugned award has been complied with. The petitioner is presently in the service of the management. This Court is of the view that denial of the relief of continuity of service would led to break in service. The Labour Court had interfered with the punishment imposed on the writ petitioner and also directed his reinstatement. Therefore, there was no justification in holding that the period from the date of dismissal till the date of raising dispute before the Labour Court will not be counted.

5.Therefore, the impugned award is interfered to this limited extent. The said period also will be counted for the purpose of continuity of service. The question of paying any backwages will not arise. The impugned award in I.D.No.11 of 2009 dated 19.04.2012 on the file of the Presiding Officer, Labour Court, Madurai is modified to this limited extent.

6. This writ petition is partly allowed. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court, Madurai.

+1cc to M/S.D.Sivaraman, Advocate SR.No. 54218

W.P(MD)No.13448 of 2014

skm
JM/SKN RSK/SAR 2/05.07.2018/2P/3C