



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.11.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

WP (MD) No. 12402 & 16746 of 2018
and
WMP (MD) Nos. 11269 in WP (MD) No. 12402 of 2018
&
WMP (MD) Nos. 14798 & 14799 of 2018
in WP (MD) No. 16746 of 2018

WP (MD) No. 12402 of 2018 :

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye pass road,
Dindigul Region, Dindigul.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Tiruchirappalli
(Camp at Dindigul).

2. T. Radhakrishnan

... Respondents

Prayer : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the first respondent in the proceedings in I.D No. 11 of 2011 dated 11.07.2017 quash the same.

WP (MD) No. 16746 of 2018 :

T. Radhakrishnan

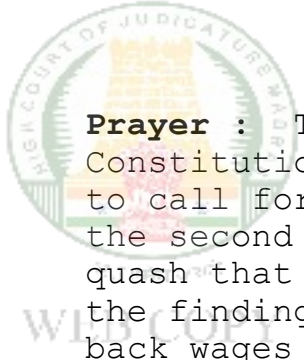
... Petitioner

Vs.

1. The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye pass road, Dindigul Region, Dindigul.

<https://hcservices.ecourts.gov.in/hcservices/>
2. The Presiding Officer,
Labour Court, Tiruchirappalli
(Camp at Dindigul).

... Respondents



Prayer : This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent in I.D No.11 of 2011 dated 11.07.2017 and quash that portion of the said Award dated 11.07.2017 which upholds the finding of the enquiry officer and denies the relief of full back wages to the petitioner as illegal and consequently direct the first respondent to pay full back wages to the petitioner from the date of removal from service ie., 31.01.2004 till is reinstatement into service.

For Petitioner
in WP(MD)No.12402 of 2018 : Mr.A.Jeyaram

For Petitioner in
in WP(MD)No.16746 of 2018 : Mr.J.Lawrance

For 2nd Respondent :
in WP(MD)No.12402 of 2018 : Mr.J.Lawrance

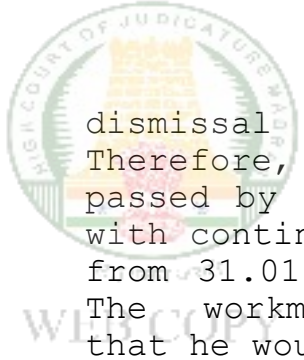
For 1st Respondent
in WP(MD)No.16746 of 2018 : Mr.A.Jeyaram

COMMON ORDER

Thiru.T.Radhakrishnan was employed as a Conductor in Tamil Nadu State Transport Corporation (Madurai) Limited, Dindigul Region. He joined service in the year 1989. He had an altercation with his superior on 30.11.2001. Therefore, disciplinary action was initiated against him. Domestic enquiry was conducted. He was found guilty and he was dismissed from service by order dated 31.01.2004. The management applied for approval. The approval petition was pending for quite sometime. Finally, approval was granted on 03.02.2006. The order granting approval was challenged by the employee by filing a writ petition in WP(MD)No.4000 of 2006. The said writ petition was finally dismissed on 05.10.2010 and the dismissed employee was relegated to move the Labour Court. Thereafter, he raised an industrial dispute. It was taken on file in I.D No.11 of 2011. The Labour Court, Tiruchirappalli (Camp at Dindigul) set aside the order of dismissal by order dated 11.07.2017 and the management was directed to reinstate the workman with continuity of service but without backwages. Challenging the denial of backwages, the aggrieved workman filed WP(MD)No.16746 of 2018. Challenging the order of reinstatement the management filed WP(MD) No.12402 of 2018. Both these writ petitions are taken up together for final disposal.

2.Heard the learned counsel on either side.

3.The only allegation against the workman is that he abused the Branch Manager. He is not said to have indulged in any act of physical violence. I am of the view that for this act, definitely



dismissal from service would be shockingly disproportionate. Therefore, I do not propose to interfere with the impugned award passed by the Labour Court insofar as it pertains to reinstatement with continuity of service. The order of dismissal was with effect from 31.01.2004. The labour court award was passed on 11.07.2017. The workman has filed an affidavit before this Court undertaking that he would not make any claim for backwages.

4. Therefore, WP(MD)No.16746 of 2018 filed by the workman stands dismissed. Likewise, WP(MD)No.12402 of 2018 filed by the management is also dismissed. It is made clear that the workman will be entitled to monetary benefits with effect from 11.07.2017. As already clarified, the workman will be entitled to continuity of service. The management shall reinstate the workman Thiru.T.Radhakrishnan within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions also stand dismissed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS-I)

TO

1.The Presiding Officer,
Labour Court, Tiruchirappalli
(Camp at Dindigul).

+1cc to Mr.J.Lawarance Advocate in SR.No.98178
+1cc to Mr.A.Jeyaram Advocate in SR.No.98149

WP(MD)No.12402 & 16746 of 2018
30.11.2018

SKM
PSSKN SAR1 07.12.2018 3P 4C