



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P (MD)No.21316 of 2014
and
MP (MD)No.1 of 2014

K.Nallathambi

... Petitioner

Vs.

The Management of Tamil Nadu
State Transport Corporation
(Kumbakonam IV) Ltd,
represented by its General Manager,
Thirumayam Road, Pudukkottai.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the award passed in I.D.No.130 of 2003 dated 10.07.2012 and consequential office order passed by the respondent in his proceedings No. Tha. Aa.Po.Ka/Kumba/Pu.Ma/1500/2014 dated 24.10.2014 insofar as ordering reinstatement without back wages and without continuity of service and directing him to join as fresh entrant in the post of Driver, quash the same and consequently direct the respondent to reinstate him with continuity of service and back wages payable from the date of his dismissal ie., on 04.08.2001.

For petitioner : Mr.A.Rahul
For respondent : Mr.D.Sivaraman

ORDER

The writ petitioner was employed in the respondent corporation as a Driver. On account of his unauthorized absence, disciplinary action was taken against him which culminated in his dismissal from service by order dated 04.08.2001. The petitioner raised an industrial dispute. The Labour Court came to the conclusion that the domestic enquiry was not fairly conducted and set aside the order of dismissal. But, backwages were denied. In fact, the writ petitioner was directed to be inducted as a fresh entrant. Aggrieved by this portion of the award, the present writ petition has been filed.

2. Heard the learned counsel on either side.

3. The management has not filed any writ petition questioning the findings of the Labour Court. Therefore, the order setting aside the writ petitioner's termination is final. The petitioner was appointed in the year 1986. He reached the age of superannuation in the year 2015. The award of the Labour Court was made on 10.07.2012. Therefore, the only issue is continuity of service and disbursement of backwages.

4. Once the order of dismissal was set aside, the petitioner ought to have been conferred with the attendant benefits also. Therefore, the petitioner should be deemed to have been in continue of service and he could not have been taken as a fresh entrant. The period from 04.08.2001 to 10.07.2012 shall be taken into account in his pensionary benefits. The award of the Labour Court is accordingly modified. Therefore, the benefits payable to the writ petitioner will have to be correspondingly quantified and they shall be disbursed within a period of twelve weeks from the date of receipt of a copy of this order.

5. This writ petition is allowed. No costs. Consequently, connected MP(MD)No.1 of 2014 is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.D.SIVARAMAN, ADVOCATE IN SR No. 57336

SKM

TE/RSK/SAR-4 : 10/07/2018 : 2P/2C

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