



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 24.01.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) .No.3289 of 2014
and
M.P. (MD) .No.1 of 2014

S.Kandhasamy

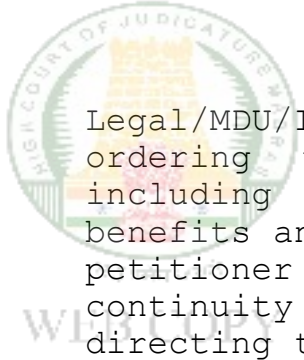
...Petitioner

Vs.

- 1.The Tamil Nadu Transport Corporation
(Madurai) Limited,
Represented by its Managing Director,
Bye Pass Road,
Madurai-625 010.
- 2.The General Manager,
The Tamil Nadu Transport Corporation
(Madurai) Limited,
Bye Pass Road,
Madurai-625 010.
- 3.The Administrator,
The Tamil Nadu Transport Corporation Pension
Fund Trust,
Thiruvalluvar Illaam,
Pallavan Salai,
Chennai-600 002.
- 4.The Assistant Manager (Legal),
Legal Department (Labour Dispute),
Madurai Region,
The Tamil Nadu Transport Corporation
(Madurai) Limited,
Bye Pass Road,
Madurai-625 010.
- 5.The Presiding Officer,
Labour Court,
Madurai.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the award passed in I.D.No.3 of 2007 by the Labour Court, Madurai, dated 31.01.2011 and consequential resolution of the Board of Directors of the first respondent communicated by proceedings of the fourth respondent in Ref:



Legal/MDU/ID No.3/2007 dated 26.08.2011, quash the same in so far as ordering the petitioner's reinstatement without any benefits including back wages, continuity of service and other attendant benefits and consequently directing the respondents to reinstate the petitioner in service with effect from 27.02.2006 with back wages, continuity service and all other attendant benefits and further directing the respondents to compute and pay him retirement benefits by taking into account the service period from 27.03.1977 to 30.06.2011 rendered by him in the first respondent Corporation.

For Petitioner : Mr.A.Rahul
For Respondents : Mr.A.Jeyaram

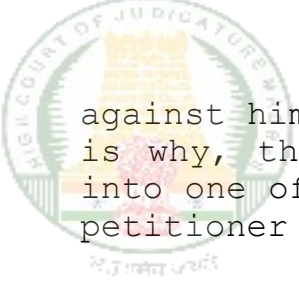
ORDER

Heard the learned counsel on either side.

2.By consent of both the parties, the main Writ Petition itself is taken up for final disposal.

3.The petitioner was employed as a conductor in the respondent/Corporation. He joined service on 27.03.1977 and his service was confirmed on 01.02.1980. On 10.06.2005, he was issued with charge memo. The charges were found proved. He was dismissed from service by order dated 27.02.2006. The petitioner raised an industrial dispute in I.D.No.3 of 2007, before the Labour Court, Madurai. The Labour Court by order dated 31.01.2011, modified the punishment into one of discharge and the management was directed to disburse the retirement benefits and eligible dues to the petitioner if he already attained the age of superannuation. An alternative direction was given to the effect that the management would reinstate the petitioner without back wages. When he reached the age of superannuation, no such relief was given and back wages was also denied to the petitioner. Aggrieved by the same, the petitioner has filed this Writ Petition.

4.The learned Standing Counsel appearing for the Corporation submitted that the Board passed a resolution on 24.06.2011, whereby it was proposed to reinstate the petitioner into service. The petitioner was disbursed with gratuity, however he was not paid pension. Now the only issue before this Court is whether the petitioner should be granted the pensionary benefits or not. It is admitted on both sides that though the Board passed a resolution on 24.06.2011 to reinstate the petitioner into service, the same was not communicated to the petitioner and the petitioner did not join duty. This Court had held in W.P.(MD).No.2115 of 2007, dated 22.02.2013, that an employee discharged from service is entitled to get pensionary benefits. Interestingly in the said case also an employee of respondent/Transport Corporation was involved. A mere reading of the award would show that the Labour Court had clearly taken the view that imposing the punishment of dismissal on the petitioner would be disproportionated to the gravity of charge made



against him and that therefore the modification was warranted. That is why, the punishment of dismissal dated 27.02.2006, was modified into one of discharge. In as much as the Board did not reinstate the petitioner

into service, this Court is of the view that the second part of the direction set out in paragraph 8 of the impugned award deserves to be set aside. The petitioner is entitled to pensionary benefits. The respondent/Corporation shall disburse the same within a period of eight weeks from the date of receipt of a copy of this order.

5.This Writ Petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

/True copy/

Sub Assistant Registrar

To

1.The Presiding Officer,
Labour Court,
Madurai.

2.The General Manager,
The Tamil Nadu Transport Corporation
(Madurai) Limited,
Bye Pass Road,
Madurai-625 010.

3.The Administrator,
The Tamil Nadu Transport Corporation Pension
Fund Trust,
Thiruvalluvar Illaam,
Pallavan Salai,
Chennai-600 002.

+1cc to Mr.A.Rahul, Advocate, SR.No.44072.

ORDER MADE IN
W.P. (MD) .No.3289 of 2014
24.01.2018

tsg

RAM/RSK/SAR 1/26.06.2018/3P/5C