



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.03.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.461 & 1496 of 2015

and

MP(MD)Nos.1 & 2 of 2015

in

WP(MD)No.461 of 2015

WP(MD)No.461 of 2015 :

The Management,
Tamil Nadu State Transport
Corporation (Madurai) Ltd,
District Collector Office Post,
Bye Pass Road,
Dindigul - 624 004.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirappalli.

2.R.Manoharan

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in I.D.No.139/2006 dated 31.08.2012 on the file of the first respondent and quash the same.

WP(MD)No.1496 of 2015 :

R.Manoharan

... Petitioner

Vs.

1.The Managing Director,
Tamil Nadu Transport Corporation
Limited,
Madurai Division - IV,
Head Office Palanganatham,
Bye Pass Road, Madurai.

2.The Management,
Tamil Nadu State Transport
Corporation (Madurai) Ltd,
Bye Pass Road,
District Collector Office Post,
Dindigul.

... Respondents



Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to direct the respondents to implement the award of the learned Labour Court, Tiruchirappalli (Camp at Dindigul) in ID.No.139 of 2006 dated 31.08.2012.

For Petitioner in : Mr.A.Jeyaram
WP(MD)No.461/2015

For Petitioner in : Mr.A.Saravanan
WP(MD)No.1496/2015

R1 in WP(MD)No.461 of 2015 - Labour Court.

R2 in WP(MD)No.461 of 2015 : Mr.A.Saravanan

Respondents 1 & 2 in : Mr.A.Jeyaram
WP(MD)No.1496/2015

COMMON ORDER

One Manoharan was employed as a Conductor in Tamil Nadu State Transport Corporation, Dindigul. He raised an industrial dispute and the same was taken on file in ID.No.139 of 2006. By award dated 31.08.2012, the termination of the said Manoharan was set aside and the management was directed to reinstate him with continuity of service with backwages. The said award is questioned at the instance of the management in WP(MD)No.461 of 2015. The employee seeking implementation of the award, filed WP(MD)No.1496 of 2015. Both the writ petitions were taken up together.

2.Heard the learned counsel on either side.

3.The only point on which the Labour Court rested its entire award is non compliance of the statutory mandate set out in Section 33(2)(b) of the Industrial Disputes Act, 1947. But, the Labour Court has not spelt out as to how the said provision could be invoked in this case. If during the pendency of any conciliation proceedings before the concerned authority, the management wanted to discharge or punish the workman for any misconduct not connected with the dispute, then post approval has to be obtained.

4.In this case, on the ground that such approval was not obtained from the competent authority, the Labour Court has chosen to set aside the order of punishment itself. In this case, even in the petition filed by the workman concerned no details are set out with regard to the pendency of the dispute with which the said Manoharan is connected. There is nothing on record to substantiate the existence of facts which justify the invocation of Section 33(2)(b).



5. Since the petition filed by the workman concerned as well as the order passed by the Labour Court are delightfully vague and bereft of particulars for invoking the Section 33(2)(b) of the Industrial Disputes Act, 1947, this Court has to set aside the award dated 31.08.2012 in ID.No.139 of 2006 on the file of the Labour Court, Tiruchirappalli. Accordingly, it is set aside. The matter is remitted to the file of the Labour Court, Tiruchirappalli. The Labour Court shall pass orders after hearing the parties afresh and in accordance with law, within a period of four months from the date of receipt of a copy of this order. It is made clear that the rights of the parties have not been adjudicated and all the contentions are left open.

6. In the result, WP(MD)No.1496 of 2015 filed by the workman is dismissed. WP(MD)No.461 of 2015 filed by the Transport Corporation is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court, Tiruchirappalli.

+2CC to Mr.A.Saravanan, Advocate, SR.No. 54633, 54634

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and
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