



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.03.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.9329 of 2014
and M.P.(MD)No.1 of 2014

The Management
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Dindigul Region,
District Collector's Office,
Dindigul-4.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirappalli.

2.G.Uthyasuriyan

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records in I.D.No.1 of 2010 dated 27.09.2013 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.A.Jeyaram
For R2 : Mr.V.O.S.Kalaiselvam
R1-Labour Court

ORDER

The Management of the Tamil Nadu State Transport Corporation, Madurai is the writ petitioner herein.

2.The second respondent was employed as Special Grade Assistant Trade's Man in the petitioner / Corporation. As he was unauthorizedly absent for a period of 182 days, a charge memo was issued against him. Domestic Enquiry was conducted. The charge of unauthorized absence was proved. Therefore, he was dismissed from service by order dated 21.02.2001. The same was questioned by the second respondent herein by filing I.D.No.1 of 2010 before the Labour Court, Trichy (at Dindigul Camp). The Labour Court by award dated 27.09.2013 directed the Management to reinstate the second respondent, but without back wages. It was further directed that the second respondent must be paid wages, what he received at the time of dismissal. This portion of the award is assailed in this Writ Petition.



3. Heard the learned counsel on either side.

4. It is no doubt true that the second respondent herein did not question the fairness of the domestic enquiry. It is also not in dispute that the industrial dispute was raised after a period of almost nine years.

5. The learned counsel for the workman would submit that the second respondent's son passed away and that led to the state of depression. That is why, he was unauthorizedly absent and again when he was dismissed from service, he did not question the same immediately. Though charges framed against the second respondent were established, the Labour Court invoked its powers available under Section 11 (A) of the Industrial Dispute Act, 1947 and modified the punishment.

6. According to the learned counsel appearing for the Management, the finding of the Labour Court was not proper. Even though there is a considerable force in the submission of the learned counsel appearing for the Management, this Court is of the view that in the interest of justice, the punishment of dismissal from service could be modified to one of compulsory retirement. The learned counsel for the workman on instructions submitted that the second respondent would accept such modification of punishment.

7. The petitioner / Management is directed to quantify the benefits payable to the second respondent and disburse the same within a period of eight weeks from the date of receipt of a copy of this order. The second respondent shall be treated as workman, who was compulsorily retired from service on 21.02.2001. The impugned award is modified. Accordingly, the writ petition is partly allowed. It is made clear that the second respondent is entitled for pensionary benefits computed on that basis. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court,
Tiruchirappalli.

+1CC to Mr.V.O.S.Kalaselvam, Advocate, SR.No. 54998

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