



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANW.P.(MD) No.9993 of 2014andW.M.P.(MD) No.9868 of 2017

C.Nagarajan

... Petitioner

Vs.

1.The Management of
Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd.,
Rep.by its General Manager,
Pillai Thanneer Pandhal,
Pudukkottai.

2.The Presiding Officer,
Labour Court,
Trichirappalli.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the award passed by the Labour Court, Trichirappalli in I.D.No.5/2008 dated 18.12.2012, quash the same and consequently direct the respondent to reinstate the petitioner in service with effect from 12.10.2000 in the post of Conductor, with back wages, continuity of service and with all other attendant benefits.

For Petitioner : Mr.A.Rahul

For R1 : Mr.D.Sivaraman

R2 - Labour Court

ORDER

The petitioner was employed as a Conductor in the first respondent Corporation on 01.01.1987. He was unauthorizedly absent for the period from 25.04.2000 to 14.07.2000. In this regard, he was issued with the charge memo and after finding him guilty, he was imposed with the punishment of removal from service by order dated 12.10.2000. The petitioner raised an industrial dispute in this regard. The matter was taken on file in I.D.No.5 of 2008 by the Labour Court, Trichirappalli. By the impugned order dated 18.12.2012, the Labour Court dismissed the said I.D.No.5 of 2008. Questioning the same, the present Writ Petition has been filed.



2. Heard the learned counsel on either side.

3. It is not in dispute that the petitioner had served the respondent management for a period of 14 years. There is nothing on record to show that the writ petitioner was a habitual absentee. He has been removed from service only for the reason that he was unauthorizedly absent for the period of 2 months and 20 days. This Court is of the view that imposing the punishment of removal of service for such absence would be grossly disproportionate.

4. The learned counsel for the writ petitioner on instructions submitted that if he is taken as having retired on 12.10.2000 and the retirement benefits are disbursed on that basis, he would be satisfied.

5. This Court is of the view that the said request is reasonable. Therefore, the order impugned in the Writ Petition is quashed. The petitioner will be deemed to have retired from service as on 12.10.2000. The respondent Management is directed to compute the pensionary and other benefits on that basis and disburse the same within a period of 12 weeks from the date of receipt of a copy of this order. If the writ petitioner had already received service gratuity, the writ petitioner is directed to repay the same.

6. This Writ Petition is allowed, accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court,
Trichirappalli.

+1CC TO M/S.A.RAHUL, ADVOCATE, SR NO.54065
+1CC TO M/S.D.SIVARAMAN, ADVOCATE, SR NO.54217

W.P. (MD) No.9993 of 2014
and
W.M.P. (MD) .No.9868 of 2017
08.03.2018

gns

MS/SKN-RSK/SAR-3/13.03.2018/2P.4C