



6BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2018

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.18525 of 2018

T.Rajendran

.. Petitioner

Vs.

The Management of
Tamil Nadu State Transport Corporation (Madurai) Limited,
rep. by its Managing Director,
Virudhunagar Region,
Virudhunagar.

.. Respondent

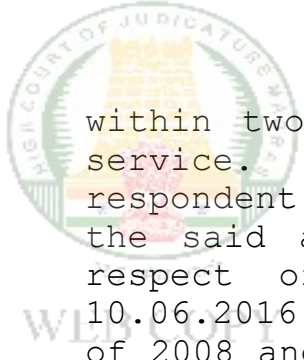
Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus directing the respondent to reinstate the petitioner with continuity of service and to pay him back wages and all other attendant benefits from 28.09.17 by complying with the award dated 27.09.07 in I.D.No. 132 of 1999 of the Labour Court, Madurai as upheld by this Court in its order dated 10.06.16 in W.P.(MD) No.7891 of 2008 and W.P.(MD) No.3122 of 2009.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mr.A.Jeyaram
Standing Counsel

O R D E R

The petitioner has come forward with this writ petition, for issuance of a writ of Mandamus directing the respondent to reinstate the petitioner with continuity of service and to pay him back wages and all other attendant benefits from 28.09.17 by complying with the award dated 27.09.07 in I.D.No. 132 of 1999 of the Labour Court, Madurai as upheld by this Court in its order dated 10.06.16 in W.P.(MD) No.7891 of 2008 and W.P.(MD) No.3122 of 2009.

2.The case of the petitioner is that he was denied employment, which made him to raise an industrial dispute that resulted an award in I.D.No.132 of 1999. The Labour Court, Madurai by an award dated 27.09.2007 directed the petitioner to be reinstated



within two months from the date of the award with continuity of service. The Labour Court rejected the other benefits. The respondent Management has preferred a writ petition, challenging the said award. The petitioner also filed a writ petition in respect of other benefits. This court by an order dated 10.06.2016 dismissed both the writ petitions viz. W.P.(MD) No.7891 of 2008 and W.P.(MD) No.3122 of 2009, confirming the said award of the Labour Court.

3.It is the case of the petitioner that the petitioner had the benefit of wages under Section 17(B) of the Industrial Disputes Act, during the pendency of writ petition. Even after the award, the petitioner was not reinstated and during the pendency of the writ petition, wages under Section 17(B) of the Industrial Disputes Act, alone was paid to him. Even after the dismissal of the writ petition filed by the Management, the petitioner was not reinstated. Now, the present petition seeks for implementation of the award of the Labour Court.

4.Since the petitioner has come forward contending that he is entitled to be reinstated and all the benefits to be paid to him from the date of the award, without expressing any observation with regard to the backwages from the date of the award, as it has got to be computed by the appropriate Labour Court, if a petition under Section 33(c)(2) of the Industrial Disputes Act is filed, the respondents are directed to reinstate the petitioner within a period of one month from the date of receipt of a copy of this order. This Court made it clear that the petitioner will be entitled to full wages from the date on which the writ petitions were disposed of (i.e 10.06.2016) With regard to backwages from 2007 till the date of the judgment, the petitioner can work out his remedy before the appropriate Labour Court.

5.Before concluding this case, this Court doesn't know as to why the petitioner has not moved an application under Section 29 of the Industrial Disputes Act for prosecuting the management. In terms of the judgment of the Honourable Apex Court in **1981 1 LLJ 1** in the case of ***Life Insurance Corporation of India Vs. D.J.Bahdur***, the award or settlement will be in force till it is modified by a subsequent settlement or an award. If award is in force, the Course of action is continuous and if any prosecution steps are initiated by workman under Section 29 of the Industrial Disputes Act, the principle laid down in ***Gupta Vs Lieutenant Governor, Delhi and Others*** reported in **1997 (1) LLJ Page 994** has to be followed.

6.This Court makes it very clear that if any writ has been filed and award has been stayed, this order can be given effect to after the dismissal of the writ/appeal.



7.If the petitioner is not reinstated within one month from the date of receipt of the order, the Managing Director of the respondent shall not draw his salary till the date of reinstatement of the petitioner.

8.Accordingly, this writ petition is allowed. No costs.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-IV)

+ 1 CC TO Mr.S.ARUNACHALAM, ADVOCATE IN SR No. 80533
+ 1 CC TO Mr.A.JEYARAM, ADVOCATE IN SR No. 80964

VS

TE/SKN/SAR-4 : 15/11/2018 : 3P/3C

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