



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WEB COPY

W.P. (MD) No.13146 of 2016

and

W.M.P (MD) No.9917 of 2016, 5298 & 5299 of 2018

The Management
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Trichy Region,
Periyamilaguparai,
Tiruchirapalli.

.. Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirapalli.

2.T.Eswari

3.Minor Deepa

4.Minor Gracy Priya

(Minors 3 and 4 represented through their
Next friend Eswari, the 2nd Respondent)

5.The Administrator,
Tamil Nadu State Transport Employees,
Pension Fund Trust, Thiruvalluvar Illam,
Anna Salai, Chennai - 600 002.

(R5 is impleaded suo motu)

.. Respondents

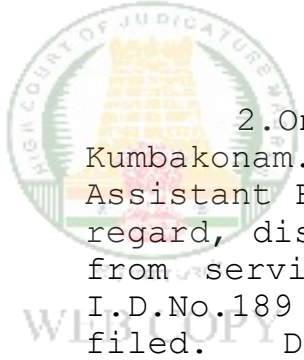
PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the award passed by the first respondent herein in I.D.No.189 of 2006 dated 11.02.2015 and quash the same.

For petitioner : Mr.D.Sivaraman

For respondents : Mr.S.Arunachalam for R2 to R4
R1 - Court

ORDER

Since the Administrator, Tamil Nadu State Transport Employees, Pension Fund Trust, Thiruvalluvar Illam, Anna Salai, Chennai - 600 002 is a necessary party, this court suo motu impleads them as fifth respondent.



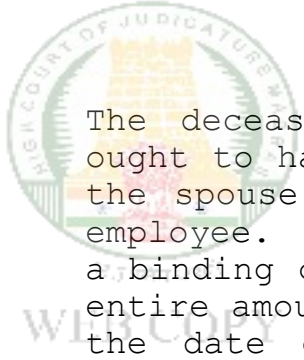
2. One Thangaraj was employed as a Draughtsman in TNSTC Kumbakonam. He was accused of having physically assaulted the Assistant Engineer, who was his superior in the work spot. In this regard, disciplinary action was taken against him. He was dismissed from service on 20.05.2003. Industrial Dispute was raised and I.D.No.189 of 2006 on the file of Labour Court, Trichy came to be filed. During the pendency of the said proceedings, the said employee passed away. His wife and children came on record. The Labour Court by award dated 11.02.2015 gave a finding that the domestic enquiry conducted against the delinquent was not proper and fair. The Management thereupon adduced evidence in support of the charges before the Labour Court. The Labour Court, however, took the view that the conduct of the Management suffered from the vice of selective discrimination. In that view of the matter, the order of dismissal was set aside and consequential benefits were directed to be disbursed to the legal heirs of the deceased employee. The same is assailed in this writ petition.

3. This Court is of the view that the Labour Court erred in not giving any finding as such on the evidence adduced by the Management after the domestic enquiry was held to be unfair. This is a case of assault on a superior officer. In matters concerning discipline in work places, the Management will have to necessarily adopt a strict approach. In this case, the Labour Court without giving any finding as to whether the Management succeeded in establishing a charge against the delinquent chose to side-step the issue by holding that the Management adopted discriminatory approach. This Court cannot appreciate this reasoning of the Labour Court. This Court went through the materials on record. It is clear that the management succeeded in establishing the charge against the delinquent. But then the delinquent had passed away by then.

4. The learned counsel appearing for the workman would submit that in such cases, the proceedings should have been held as abated and the Management ought not to have been permitted to adduce evidence before the Labour Court. He also referred to the decision of the Rajasthan High Court in C.S.A(Writ)No.2591 of 2011. No doubt, the submission of the learned counsel for the workman is attractive. But then, the counsel for the workman wanting to give quietus to the whole issue called upon this Court to substitute the order of dismissal by an order of compulsory retirement. The wife of the deceased employee is also present before this Court. She is also agreeable to the course of action suggested by her counsel.

5. In view of the stand taken by the legal heirs of the deceased employee, this Court modifies the punishment of dismissal to one of compulsory retirement.

6. The deceased employee had joined service way back in the year 1980. <https://hcservices.ecourts.gov.in/hcservices/> He was dismissed from service on 20.05.2003. Now he shall be deemed to have been compulsorily retired on the said date.



The deceased employee was alive till 23.06.2012. Therefore, he ought to have been paid full amount of family pension. Thereafter, the spouse will have to be given half the quantum received by the employee. The fifth respondent is impleaded as party so as to pass a binding order. The benefits payable shall be quantified and the entire amount shall be disbursed within a period of eight weeks from the date of receipt of a copy of this order. The petitioner Management as well as the fifth respondent trust shall also quantify the other service benefits, such as, Provident Fund, Gratuity, Leave Encashment Salary, etc., and disburse the same.

7.Mr.D.Sivaraman, learned counsel for the writ petitioner submits that the service gratuity has already been received and the same can be adjusted. This submission is accepted.

8.This writ petition is partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

The Presiding Officer,
Labour Court,
Tiruchirapalli.

+1cc to M/S.S.Arunachalam, Advocate SR.No. 57148
+1cc to M/S.D.Sivaraman, Advocate SR.No. 57106

ORDER MADE IN
W.P. (MD) No.13146 of 2016
and
W.M.P (MD) No.9917 of 2016, 5298 & 5299 of 2018
21.03.2018

skn
JM/SV/SAR 1/09.07.2018/3P/4C