



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.8419 of 2011

P.Nagenthiran

... Petitioner

Vs

1. The Presiding Officer,
Labour Court,
Madurai.

2. The Management of
Pandiyam Roadways Corporation Ltd.,
Now renamed as
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Rep. by it's Managing Director,
Madurai.

... Respondents

PRAYER: Writ Petition is filed, under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, after calling for the records from the 1st respondent Labour Court relating to the impugned award dated 31.01.08 in I.D.No.241/96 of the 1st respondent, quash the same in so far as denying back wages and other attendant benefits to the petitioner and consequently to direct the 2nd respondent to reinstate him in service with back wages and continuity of service and all other attendant benefits.

For Petitioner	: Mr.Ajay Khose for Mr.S.Arunachalam
For R1	: Mr.Aayiram K.Selvakumar Additional Government Pleader
For R2	: Mr.D.Sivaraman

ORDER

The Prayer sought for in the writ petition is for a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent Labour Court relating to the impugned award, dated 31.01.2008 in I.D.No.241/96 passed by the first respondent and quash the same and consequently to direct the second respondent to reinstate him in service with backwages and continuity of service and all other attendant benefits.



2.The writ petitioner was employed as Driver in the second respondent Transport Corporation. The vehicle driven by the petitioner was involved in an accident on 15.07.1994. In the resulting accident, as many as three persons died and 19 persons suffered injuries. Therefore, disciplinary action was initiated against the writ petitioner and he was dismissed from service by order, dated 18.05.1996.

3.The petitioner raised an Industrial Dispute in I.D.No.241 of 1996, on the file of the Labour Court, Madurai. The Labour Court, Madurai directed his reinstatement. Questioning the same, the management filed a writ petition before this Court and the matter was remanded. After remand, the Labour Court passed a fresh award, dated 31.01.2008 holding that the charges against the petitioner are not proved and that the petitioner is entitled to be reinstated. But then back wages were denied. Challenging the denial of back wages, the petitioner has filed present writ petition.

4. Heard the learned counsel appearing on either side.

5.The learned counsel appearing for the writ petitioner on instructions, submitted that he would not press the claim for back wages and that the petitioner would be satisfied if a direction is given to the Management to pay the employer's contribution for pension and if attendant benefits are conferred.

6.The learned Standing Counsel appearing for the second respondent drew the attention of this Court to paragraph No.1 of the impugned award and contended that the petitioner, who has contributed to the dragging on the proceedings, is not entitled to further indulgence. In fact, the management ought to have filed the writ petition questioning the labour court award.

7.Though the aforesaid objections of the learned counsel for the second respondent carry much force, I am of the view that the request made by the petitioner's counsel can be accepted for more than one reason. The petitioner was prosecuted, but the prosecution ended in acquittal. Before the Labour Court, the management was allowed to adduce fresh evidence and even thereafter, the charges were not proved. The matter has seen two rounds of litigation. Therefore, the petitioner cannot be entirely at fault. In this view of the matter, even while sustaining the denial of backwages to the petitioner, the Management is directed to pay the employer's contribution for the period and confer the other attendant benefits, on notional basis. ~~Services made in services~~ that for the period in question, payment of other monetary benefits, is specifically denied.



8. With these modifications, the writ petition is partly allowed. No costs.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Presiding Officer,
Labour Court,
Madurai.
2. The Management of
Pandiyam Roadways Corporation Ltd.,
Now renamed as
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Rep. by its Managing Director,
Madurai.

+1 cc TO Mr.D.Sivaraman, ADVOCATE IN SR NO.96890

+1 cc TO Mr.S.Arunachalam, ADVOCATE IN SR NO.96632

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MK/KK/BK/SAR 2/09.01.2019/3P/5C

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