

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

Writ Appeal No.678 of 2013

N.Kathiravan

.. Appellant/Petitioner

-vs-

1.The Superintendent Engineer,
Mechanical Engineering Department,
Corporation of Chennai,
Chennai-3.

2.The Commissioner,
Corporation of Chennai,
Ribbon Building, Chennai-3.

3.The Presiding Officer,
1st Additional Labour Court,
Chennai.

... Respondents/Respondents

APPEAL under Clause 15 of the Letters Patent to set aside
the order dated 11.10.2012 made in W.P.No.15863 of 2011.

W.P.No.15863 of 2011:

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorarified Mandamus calling for the records relating to I.D. No.477 of 2004 and to set aside the part of the Award of the Labour Court dt 29.9.2009 by which the Labour Court denied continuity of service backwages and all other attendant benefits consequently to direct the 1 and 2 respondents to pay full backwages continuity of service with all other attendant benefits for the period of denial work of petitioner to till the date of award of the Labour Court dt 29.9.2009.

For Appellant : Mr.R.Jaikumar,
for M/s.T.Fenn Walter Associates

For RR1 and 2 : Mrs.Karthikaa Ashok,
Standing Counsel

JUDGMENT
(Delivered by T.S.Sivagnanam, J.)

This appeal, filed by the appellant/writ petitioner, is directed against the order in W.P.No.15863 of 2011, dated 11.10.2012.

2.The appellant/petitioner challenged the award of the Labour Court in I.D.No.477 of 2004, insofar as it denied continuity of service, back wages and all other attendant benefits.

3.The Labour Court took into consideration the facts of the case and noted that the appellant was arrayed as A2 in Sessions Case No.10/2000 and was confined to prison for about 50 days, pendency of the criminal case arose, detention of the appellant was not informed to the respondent-Management and only on 26.09.2002, he was acquitted of the charge on account of benefit of doubt. The Labour Court after considering the facts of the case, held that the appellant is entitled to re-employment as a new entrant. However, the relief with regard to the continuity of service, back wages and other attendant benefits were denied.

4.Before the Writ Court, the appellant/petitioner canvassed all the grounds which were canvassed before us and the Court noted that the appellant/petitioner was only a temporary driver, he was not paid monthly salary and the appellant had belatedly approached the respondent-Corporation requesting for giving employment without disclosing the criminal case. Thus, the facts were fully appreciated by the Labour Court which were found to be correct by the learned Single Bench and in this appeal, we cannot re-appreciate the evidence and take a different ground.

5.Furthermore, Mrs.Karthikaa Ashok, learned Standing Counsel submitted that the appellant was not regularized as a driver, though 150 of 296 temporary drivers were regularized.

6.It is seen that after the award of the Labour Court, the appellant is still continuing as a temporary driver from 2009. If that is so, it is high time the respondent-Corporation considers the case of the appellant for regularization with prospective effect, since he has been in continuous employment of temporary driver since 2009 and it appears that the appellant has not come to the adverse notice of the respondent during this period. A decision in this regard may be taken by the respondent-Corporation as expeditiously as possible preferably within a period of three months' from the date of receipt of a copy of this judgment.

7.This writ appeal is disposed of, with the above observation. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

abr

To

1.The Superintendent Engineer,
Mechanical Engineering Department,
Corporation of Chennai,
Chennai-3.

2.The Commissioner,
Corporation of Chennai,
Ribbon Building, Chennai-3.

3.The Presiding Officer,
1st Additional Labour Court,
Chennai.

+1 CC to Mrs.KArthikaa Ashok, Advocate sr 23801.

+1 CC to M/s.T.Fenn Walter Associates, sr 24126(13/08/2019)

W.A.No.678 of 2013

BR(CO)
SP(23/04/2019)

सत्यमेव जयते

WEB COPY