

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.17600 of 2013
and M.P.No.1 of 2013

The General Manager,
Tamil nadu State Transport Corporation Ltd
Salamedu, Vazhuthareddy, Villupuram,
Villupuram District. ... Petitioner

-vs-

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.G.Devanathan ... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 1st respondent made in I.D.No.7 of 2011 dated 24.08.2012 and to quash the same as illegal.

For Petitioner : Mr.R.Annamalai

For Respondents :Mr.Poovendan
for Mr.T.Saikrishnan for R2
R1 : Court

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O R D E R

Challenging the award of the Labour Court in I.D.No.7 of 2011 dated 24.08.2012 directing reinstatement of the 2nd respondent as a Driver, the present writ petition has been filed.

2. The sum and substance of the issue on hand is that the Workman joined as a Driver on 18.03.1997 and that he done with an accident on 03.05.2010, for which a charge memo was issued and after conducting detailed enquiry, received explanation from the workman, which was considered as not satisfactory and the dismissal order was passed on 24.09.2010. The Labour Court held that the domestic enquiry is fair and proper, but while re-appreciating the facts came to the conclusion that the charges

are not proved and that M.W.1 has also admitted in the cross examination that report has been filed to show that the charges against the petitioner was not proved and that the petitioner was not responsible for the accident. The petitioner has also suffered punishment of stoppage of increment for a period of 5 years for earlier fatal accident, but in respect of the first accident, the petitioner was acquitted in the criminal case and that with regard to second and third accidents, the matter is pending before Criminal Court and that according to the Management as the petitioner has crossed three accidents, the punishment was imposed, which has been set aside by the Labour Court. The Labour Court has awarded reinstatement and continuity of service and that he is not entitled to backwages.

3. Even though the award has been passed as early as in August 2012 and the writ petition has been filed on 19.01.2013, the Worker has not filed any petition claiming wages under Section 17B of the Industrial Dispute Act, 1947. As the award has been rendered based on the finding of the fact and re-appreciation of evidence, this Court posed a suggestion to the Management and the Workmen as to whether there is any feasibility of settlement and that this Court suggested that the employer can reinstate the employee without backwages.

4. The employee is present before this Court and he is agreeable for reinstatement without backwages but with continuity of service and other terminal benefits.

5. The learned counsel for the Management submits that he got verbal instructions from the Management that if he is willing to give up backwages, they would reinstate him.

6. Though this Court is inclined to interfere with the award as the parties have agreed to give a quietus to the matter instant, without prolonging it further and that the employee is aged about 51 years, taking note of the submissions of both the parties and workmen who is present before this Court, the award of the Labour Court is modified as follows:

7. The dismissal order passed by the employer which has been set aside by the Labour Court is confirmed. The second respondent/employee is entitled to reinstatement with continuity of service, but without backwages till today. However, the second respondent shall be given all notional benefits for the purpose of terminal benefits and that the period shall not be taken as break in service. The petitioner management/employer shall provide employment within a period of eight weeks from the date of receipt of the order and that the employee would be entitled to current charges from today.

7. This Court appreciates both the learned counsel for the parties for amicably settling the matter and given a quietus to the issue on the hand. I am of the view that in Labour matter, the litigation should attain finality during the life time of the workman; else legal heirs' legal heir alone will get the benefits.

8. The Writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

The Presiding Officer,
Labour Court,
Cuddalore.

+1c to Mr.R.Annamalai, Advocate Sr.72591

+1cc to M/s.Sai & Bharath, Advocate Sr.71996

W.P.No.17600 of 2013

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