

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 11.02.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP.No.38220 of 2004
and
WV.MP.No.808 of 2006
and
WP.MP.No.45748 of 2004 & 11671 of 2006

Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Rep. by its Managing Director,
Dharmapuri. Petitioner

Vs

1. The Presiding Officer,
Labour Court, Salem.
2. N.Krishnan (Deceased),
3. Kala
4. Jansirani
5. Rajesh
(R3 to R5 substituted as LRS as per
order dated 06.02.2015 in MP.No.10 of 2015
in WP.No.38220 of 2004) ... Respondent

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India to issue a Writ of Certiorarified Mandamus
or any other Writ or directions in the nature of a Writ calling
for the records of the 1st respondent in I.D.No.200 of 2003
dated 20.01.2004 and quash the same.

For Petitioner : Mrs.S.Rajeni Ramadass

For Respondents : Mr.G.Ananda Kumar
for R3 to R5

R1 - Court
R2 - Died

O R D E R

The main ground raised by the standing counsel for the Corporation challenging the award passed by the Labour Court is that the Labour Court having observed that there was a discrepancy in the explanation and the medical certificate produced by the 2nd respondent herein ought not to have ordered for reinstatement into services along with entire backwages and other attendant benefits.

2. The learned counsel for the respondent, on the other hand, submitted that the punishment imposed is disproportionate to the charges levied. The learned counsel submitted that the 2nd respondent herein have chosen to give an explanation to his absence and as such, the Labour Court was correct in ordering reinstatement.

3. A perusal of the award reveals that the only ground on which reinstatement seems to have been ordered is that the Court had felt that the 2nd respondent herein had chosen to give his explanation and therefore, the punishment of termination from service is disproportionate to the charges levied. As submitted by the learned standing counsel for the corporation, it is true that the reason adduced in the explanation that the petitioner was absent, since he was suffering from Typhoid is contrary to the reason in the medical certificate which reveals that the petitioner was undergoing medical ailment of Jaundice. There is a large difference between the medical ailments cited as reasons for the 2nd respondent's absence. As such, the learned standing counsel may be correct in pointing out that the award of reinstatement ought not to have been ordered. Nevertheless, when it is seen that the 2nd respondent herein had chosen to offer his explanation for the absence, it cannot be said that he had unauthorisedly absented himself and as such, the management could have taken a lenient view by imposing a lesser punishment. Viewing from that angle, it can be said that the punishment of termination is disproportionate to the charges levied.

4. On a co-joint consideration of the observations made by this Court, I am of the view that the punishment of termination from service could be modified to one of a compulsory retirement. This Court is also conscious of the fact that the 2nd respondent herein has expired pending the Writ Petition and is survived by his wife and two children.

5. For all the foregoing reasons, the award dated 20.01.2004, passed in I.D.No.200 of 2003, is set aside and consequently modified by imposing a punishment of compulsory retirement of the 2nd respondent herein namely N.Krishnan. In view of the modification of the award, the legal heirs of the 2nd respondent shall be entitled for all the terminal and

pension benefits. The respondents shall endeavour to dispose of such terminal and pension benefits as expeditiously as possible, in any event, within a period of 3 months from the date of receipt of an application from the petitioner.

6. The respondents 3 and 4 shall also make a request to the application before the petitioner herein, enclosing a copy of this order seeking for terminal and pension benefits.

7. Accordingly, the present Writ Petition stands ordered. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Dharmapuri.
2. The Presiding Officer,
Labour Court, Salem.

+1 cc to Mr.G.Ananda Kumar, Advocate Sr.No.12524

+1 cc to Mr.S.Rajani Ramadoss, Advocate Sr.No.12191

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SR(CO)
CSL/13.03.2019

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