

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.22422 to 22425 of 2005

P.Ravi ...Petitioner in W.P.No.22422 of 2005
R.Kandasami ...Petitioner in W.P.No.22423 of 2005
K.Seekizhar ...Petitioner in W.P.No.22424 of 2005
G.Mohan ...Petitioner in W.P.No.22425 of 2005

-Vs-

1. The Presiding Officer,
Labour Court, Salem-636 007.
2. The Management,
Tamil Nadu Arasu Transport Corporation Ltd.,
(Salem Division-2), Salem Main Road,
Bharathipuram, Dharmapuri District.
...Respondents in all W.Ps

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the award passed by the Presiding officer, Labour Court, Salem the 1st respondent herein in I.D.Nos.41 of 2002, 83 of 2003, 22 of 2002 and 289 of 2002 respectively dated 03.02.2003, 06.02.2003 24.12.2002, 23.12.2002 respectively and to quash the portion of the award denying continuity of service, backwages and their service benefits to the petitioner and thereby direct the respondent to continuity of the service of the petitioner with backwages, other service benefits and annual increments with selection/special grade scale of pay.

For Petitioner : Mr.J.Muthukumar
for Mr.V.Thirupathi

For Respondents : R1-Labour Court
Mr.R.K.Gandhi
for R2.

O R D E R

The awards of the Labour Court dated 03.02.2003, 06.02.2003, 24.12.2002, 23.12.2002 in I.D.Nos.41 of 2002, 83 of 2003, 22 of 2002, 289 of 2002 are under challenge in the present writ petitions.

2. The writ petitioners joined as Helper (ATM) in the second respondent Corporation and later, the service of the writ petitioners were regularized. On account of the allegations of unauthorized absence, a charge memorandum was issued to the writ petitioners. After conducting enquiry, the writ petitioners were dismissed from service based on the findings of the Enquiry Officer that the charges were proved. Challenging the order of dismissal, the petitioners raised an Industrial Dispute in I.D.No.41 of 2002. The Labour Court elaborately considered the case and found that the charges against the writ petitioners/workmen were proved. However, the Labour Court set aside the order of dismissal on the ground that the punishment was disproportionate to the proved charges. Undoubtedly, the charges of unauthorized absence is serious misconduct. However, in such circumstances, the Corporation has also issued orders to treat such employees afresh, by taking a lenient view. Adopting the said proof, the Labour Court set aside the order of dismissal and directed the Management to reinstate the writ petitioners. Accordingly, the writ petitioners were reinstated into service and served in the Transport Corporation and reached the age of superannuation, during the pendency of the writ petition.

3. The learned counsel for the writ petitioner states that the number of unauthorized absence days are about one month and therefore, the writ petitioners would be eligible for all the benefits including the backwages and continuity of services.

4. This Court is of the considered opinion that the findings of the Labour Court in this regard are candid and convincing, and there is no infirmity as such. The Labour Court found that the facts and circumstances were taken into account and further, the claim of the writ petitioners that they were not well, was also taken into consideration and accordingly, the order of reinstatement without backwages and continuity of services was passed.

5. This Court is of the considered opinion that the Labour Court has adopted the same principle and held that the workmen are entitled for reinstatement and not for backwages and continuity of services. In the present case, allegations of unauthorized absence were proved beyond doubt and the enquiry officer also held that the charges were proved. When the Management is able to prove before the Labour Court that the charges against the workmen were proved, the decision taken by the Labour Court in setting aside the order of dismissal without backwages is in consonance with the legal principles and there is no perversity or otherwise. Further, the workmen were reinstated and they served in the corporation and were allowed to retire from service.

6. This being the factum, no further consideration is required in respect of the other claims of the writ petitioners and consequently, the awards of the Labour Court dated 03.02.2003 06.02.2003, 24.12.2002, 23.12.2002 passed in I.D.Nos.41 of 2002, 83 of 2003, 22 of 2002, 289 of 2002 stands confirmed. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

ssb

Sd/-
Assistant Registrar(CJ Conf.)

//True Copy//

Sub Assistant Registrar

To

1. The Presiding Officer,
Labour Court, Salem-636 007.
2. The Management,
Tamil Nadu Arasu Transport Corporation Ltd.,
(Salem Division-2), Salem Main Road,
Bharathipuram, Dharmapuri District.

+4CCs to Mr. Advocate, SR.No.82702 to 82705

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Kak(11/11/2019)

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