

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.Nos.3056 & 3065 of 2019

W.A.No.3056 of 2019

The Management
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd., Coimbatore - 43
(Formerly known as)
Coimbatore Division - II
Rep. by its Managing Director
Chennai Road
Erode 638 002 ... Appellant/Petitioner

Vs

1.P.Manoharan,
S/o.K.Palaniappan,
Chinna Goundanur Post,
Sankagiri Post,
Salem District 637 303. ... 1st Respondent

2.The Presiding Officer,
Labour Court, Salem. ... 2nd Respondent/Respondents

PRAYER : Appeal against the order dated 26.09.2018 made in
W.P.No.21827 of 2005 passed by this Court.

W.P.No.21827/2005:

Praying to issue a Writ of Certiorari to call for the
records of the Second Respondent in C.P.No.620/2002 dated
25.08.2004 and quash the same.

For Appellant :Mr.P.Kannan Kumar

For Respondents:Mr.V.Ajoy Khosh

W.A.No.3065 of 2019

Tamil Nadu State Transport Corporation
(Coimbatore Division - II) Ltd.,
Rep. by its General Manager,
Chennai Road, Erode 638 002. ... Appellant

Vs

P.Manoharan,
S/o.K.Palaniappan,
Chinna Goundanur Post,
Sankagiri Post,
Salem District 637 303.

... Respondent

PRAYER : Appeal against the order dated 26.09.2018 made in W.P.No.7108 of 2003 passed by this Court.

W.P.No.7108/2003:

Praying to issue a Writ of Mandamus directing the Respondent to pay the Petitioner Current Wages on par with the Petitioner Colleagues not lesser than the wages of the Petitioner Juniors Award Costs.

For Appellant :Mr.P.Kannan Kumar
For Respondents:Mr.V.Ajoy Khosh

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The 1st respondent/employee joined the service of the appellant/Transport Corporation on 30.12.1986 as Junior Engineer. The employee was removed from service as he had helped the contractor to remove certain materials belonging to the contractor without getting any approval from the authorities, on 12.09.1991.

2.The said order was challenged before the Labour Court and the Labour Court on 30.05.1995, set aside the order of removal passed by the management and ordered reinstatement of the employee with continuity of service without back wages. Thereafter, the said order was challenged by the transport corporation as well as by the employee. The Writ Petition filed by the transport corporation in W.P.No.15287 of 1995 was dismissed and the Writ Petition filed by the employee in W.P.No.1049 of 1996 was allowed on 14.03.2002, granting back wages. The order passed by the learned single Judge has become final. Thereafter, on 26.07.2002 the employee has given a letter seeking reinstatement and also expressed his willingness to forego 1/4th of the back wages. However, the Board of Management approved reinstatement of the employee without back wages on 07.09.2002 and the employee was reinstated on 25.11.2002 without back wages. The employee filed C.P.No.620 of 2002, claiming back wages from the date of dismissal till the date of reinstatement. That computation petition was allowed on 25.08.2004, determining the amount at Rs.7,08,692/- along with interest at 6%. The said order has been challenged by the

appellant/transport corporation in W.P.No.21827 of 2005 and another Writ Petition has been filed by the employee seeking current wages in W.P.No.7108 of 2003. Both the Writ Petitions were disposed of by a common order on 26.09.2018. The said common order has been challenged before this Court by the Transport Corporation in these appeals.

3.Heard Mr.Kannan Kumar, learned counsel appearing for the Transport Corporation and Mr.V.Ajoy Khosh, learned counsel appearing for the employee.

4.The learned single Judge after going into the crux of the matter observed that the Labour Court has already ordered reinstatement and this Court has also ordered back wages which was not ordered by the Labour Court. The amount has also been determined in the computation petition at Rs.7,08,692/- along with 6% interest. In the course of argument, learned counsel appearing for the employee submitted that the employee is willing to accept Rs.4,32,558/- which has been deposited by the appellant with the Labour Court and the learned Judge permitted the employee to withdraw a sum of Rs.4,32,558/- along with accrued interest on a formal petition to be filed before the Labour Court, Salem.

5.Taking into consideration that the employee is satisfied with the amount of Rs.4,32,558/-, the learned single Judge has held that the employee shall not make any other claims as computed by the Labour Court in C.P.No.620 of 2002 dated 25.08.2004 and thereby partly allowed W.P.No.21827 of 2005 filed by the management.

6.It is evident from the records that the Labour Court has already ordered reinstatement as early as on 30.05.1995 which has also been confirmed by this Court on 14.03.2002. Therefore, the learned single Judge directed the management to re-fix the pay, since the petitioner is entitled to get back wages and after re-fixation difference of pay if any was ordered to be paid to the employee as arrears and the aforesaid exercise was ordered to be undertaken by the management within a period of three months from the date of receipt of a copy of that order.

7.This Court does not find any illegality in the order passed by the learned single Judge. In fact the learned single Judge held that the management substantially reduced the amount payable to the employee and therefore, there are no merits in the appeals. The appellants are directed to comply with the order passed by the learned single Judge.

8.The employee filed an affidavit dated 26.09.2019. Paragraph 3 of the said affidavit is usefully extracted as

follows:

"I respectfully submit that the learned Judge has partly allowed the Writ Petition filed by the Appellant, based on my statement that I was giving up the balance amount of Rs.2,76,134.37/- from out of the total computed amount of Rs.7,08,692.37/- and interest for Rs.7,08,692.37/- at the rate of 6% per annum from the date of the order in the C.P. till the date of disposal of the Writ Petitions and based on the statement that I would be satisfied with the amount of Rs.4,32,558/- which was deposited to the credit of the C.P. pursuant to the interim orders of this Hon'ble Court, with the accrued interest."

On perusal of the affidavit, it is seen that the employee has agreed to forego 10% of the difference in salary payable to him for the period from the date of reinstatement till the date of retirement. The aforesaid concession has been given by the employee, taking into consideration that he has already attained superannuation. Therefore, except the foregoing of 10% as per the affidavit filed by the employee, the management has to calculate the other amounts as per the order of the learned single Judge and pay the amount within a period of 12 weeks from the date of receipt of a copy of this order. After paying the amount, compliance report has to be filed before this Court during first week of January 2020.

9. Since the employee has already retired from service on 30.04.2019, he shall be paid retirement/terminal benefits along with other payments, which he is entitled to, within a period of 12 weeks from the date of receipt of a copy of this order.

10. The Writ Appeals are disposed of in the above terms. Call the matter for reporting compliance during 1st week of January 2020, failing which, the Chairman-cum-Managing Director and Chief Financial Officer-cum-Chief Accounts Officer shall appear before this Court.

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

sai

To

1.The General Manager

Tamil Nadu State Transport Corporation Ltd
(Coimbatore Division II)
Chennaiimalai Road
Erode 638 002.

2.The Managing Director

Tamil Nadu State Transport Corporation Ltd
(Coimbatore), Coimbatore 43, Coimbatore Division II
Chennaiimalai Road
Erode 638 001.

3.The Presiding officer

Labour Court, Salem

4.The Chairman cum Managing Director

Tamil Nadu State Transport Corporation Ltd
(Coimbatore Division II)
Chennaiimalai Road
Erode

5.The Chief Financial Officer and Chief Accounts Officer

Tamil Nadu State Transport Corporation Ltd
Chennaiimalai Road
Erode
Coimbatore Division II

Copy to

The Section Officer
Judicial Section(W.A. Posting)

High Court, Madras(post on 1st week January 2020 for
reporting compliance)

+1 CC to Mr.P.Kannan Kumar, Advocate sr 85210.

+1 CC to Mr.V.Ajoy Khose, Advocate sr 84317.

WEB COPY

W.A.Nos.3056 & 3065 of 2019

SSI (CO)

SP(19/11/2019)