

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.1161 of 2014

and

M.P. No.1 of 2014

The Management,
Rep. By its General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.
Nagapattinam Region,
Nagapattinam - 611 001. ... Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai.

2. A. Meyyappan ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to call for the records of the 2nd respondent made in A.P. No.92 of 2011, dated 27.12.2012 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.D. Venkatachalam

For Respondents : Mr.V. Shanmugasundar
Spl. Government Pleader for R1

Mr.S. Sivakumar for R2

ORDER

Challenging the rejection order in A.P. No.92 of 2011, dated 27.12.2012, the Management of the transport Corporation has filed this writ petition.

2. According to the petitioner, the 2nd respondent, was working as Conductor in their Transport Corporation and due to the act of misappropriation, a charge memo, dated 03.09.2010 was issued to him. Thereafter, the 2nd respondent has submitted his reply, which was found to be unsatisfactory and hence, he was dismissed from the services on 01.03.2011. Subsequently, approval petition was filed before the 1st respondent seeking approval of the dismissal of the 2nd respondent under Section 33 (2) (b) of the Industrial Disputes Act, 1947. While so, the 1st

respondent rejected the Approval Petition filed by the petitioner in AP No.92 of 2011, dated 27.12.2012 stating that the order of dismissal is not justified. Aggrieved by the same, the petitioner / Management has filed this present Writ Petition before this Court.

3. The learned counsel for the petitioner argued that the 2nd respondent was terminated from service in the category of Reserve Crew and his employment was purely on Reserve Category and not in regular stream. While so, it is further submitted that the Management is now intended to re-engage the 2nd respondent into service in the category of Reserve Crew. Further, it is made clear that the re-engagement would not amount to any entitlements viz., backwages or continuity of service, as the 2nd respondent was under employment in Reserve Category alone.

4. The learned counsel for the 2nd respondent vehemently contended that the 2nd respondent accepted to forego the backwages, if the Management would accommodate him in the post of Office Assistant or Gate Keeper or Time Keeper or any other post without affecting his seniority for further promotion.

5. Heard both and perused the materials placed on record.

6. Considering the submissions so made by the learned counsel for both sides, this Court is of the view that the services of the 2nd respondent is only on temporary basis and not on regular stream. More so, it is accepted by both parties that the 2nd respondent is not eligible for any backwages.

7. Accordingly, by recording the above submissions, this Court directs the petitioner/Management to re-instate the 2nd respondent either in any one of the post of Office Assistant or Gate Keeper or Time Keeper or any other available post without paying any back wages or continuity of service.

8. Accordingly, this writ petition stands disposed of in the above lines. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(Insp.cell)

//True Copy//

Sub Assistant Registrar

vsi2

To

1.The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai.

+1 cc to Mr.S.Sivakumar, Advocate, Sr.No. 22140
+1 cc to Mr.D.Venkatachalam, Advocate, Sr.No. 22717

W.P.No.1161 of 2014

BR (CO)
CSL/02.05.2019



WEB COPY