



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 29.07.2019

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CORAM:

THE HON'BLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD)No.92 of 2019 and C.M.P. (MD) No.625 of 2019

and

W.A. (MD)No.71 of 2019 and C.M.P. (MD) No.411 of 2019

W.A. (MD)No.92 of 2019

The Management of Tamil Nadu State,
Transport Corporation (Madurai) Ltd.,
Bye Pass road, Collector Office Post,
Dindigul 625 010

... Appellant / Petitioner in
W.P.(MD) No.5231 of 2016

Vs.

1) The Special Deputy
Commissioner of Labour,
Chennai 600 006

2) C.M.Pitchaimani

... Respondents/ Respondents

W.A. (MD)No.71 of 2019

The Management of Tamil Nadu State,
Transport Corporation (Madurai) Ltd.,
Dindigul Region,
Rep. by its Managing Director,
Dindigul.

... Appellant / Respondent

Vs.

C.M.Pichaimani

... Respondent/ Writ Petitioner
in W.P. (MD) No.18821/2015

PRAYER in W.A. (MD)No.92 of 2019: Writ Appeal is filed under Clause 15 of Letters Patent Act to set aside the order dated 12.02.2018 passed in W.P. (MD)No.5231 of 2016.

PRAYER in W.A. (MD)No.71 of 2019 :Writ Appeal is filed under Clause 15 of Letters Patent Act to set aside the order dated 04.12.2018 passed in W.P. (MD)No.18821 of 2015.

Prayer in WP(MD) . 18821/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF MANDAMUS directing the respondent to reinstate the petitioner with continuity of service, back wages and all other attendant benefits as per the order dated 03.11.2014 of the Special Deputy Commissioner of Labour, Chennai passed u/s.33(2)(b) of I.D. Act in Approval Application A.P.No.117/13.

Prayer in WP(MD) . 5231/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records of the 1st respondent in his proceeding in Approval Petition in A.P.No.117/2013 dated 03.11.2014, quash the same.

In both Writ Appeals:

For Appellant : Mr. VR.Shanumuganathan
Special Government Pleader

For sole respondent in : Mr.M.Pounraj
W.A.(MD) No.71/2019
& R2 in W.A.(MD) No.
92/2019

C O M M O N J U D G M E N T

(Judgment of this Court was made by K.RAVICHANDRABAABU, J.)

1. The Writ Appeal filed in W.A.(MD) No.92 of 2019 is directed against the order passed in W.P.(MD)No.5231 of 2016 dated 12.02.2018 and the Appellant is the Writ Petitioner before the Writ Court.

2. This Writ Appeal filed in W.A.(MD) No.71 of 2019 is directed against the order passed in W.P.(MD)No.18821 of 2015 dated 04.12.2018 and the appellant is the respondent before the Writ Court.

3. In both these Writ Appeals, the contesting Respondents are one and the same. During the pendency of these Writ Appeals, the parties have arrived at a settlement and accordingly, they filed a joint memo dated 24.07.2019 signed by both parties as well as their respective counsel. The said joint memo reads as follows:

" The Appellant and respondent above named submit as follows:

➤ Respondent was working as driver in the Appellant Corporation. Pursuant to issuance of charge memo on 26.06.2012 that he was unauthorizedly absent from

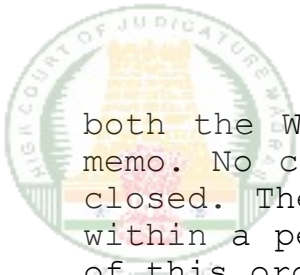


25.03.2012 to 24.05.2012, an enquiry was held. He was set ex-parte, since he did not turn up despite notices and enquiry report was submitted on 07.12.2012, that charges stood proved. After issuance of second show cause on 05.01.2013 and 28.01.2013, he was dismissed from service on 19.03.2013. Application for approval U/s 33(2) (b) of Industrial Dispute Act was negatived by the competent authority on 03.11.2014.

- Respondent filed W.P.(MD) No.18821/2015 seeking Mandamus to reinstate him with continuity of service, back wages and all other benefits.
- Management filed W.P.(MD) No.5231/2016 challenging the proceedings dated 03.11.2014 of the competent authority.
- W.P.(MD) No.5231/ 2016 was dismissed by this Hon'ble Court and W.P(MD) No.18821 of 2015 was allowed.
- As against the same appellant has preferred appeals in W.A.(MD) No.92 of 2019 and W.A.(MD) No.71 of 2019.
- To put a quietus to the issue appellant/management have decided to modify the punishment and reinstate the petitioner without back wages but with continuity of services.
- The management shall award punishment of one stage reduction in pay and shall also reinstate the Respondent without any back wages but with continuity of service, the decision which the Respondent also agree and abide.
- In view of above appeal in W.A.(MD) No.92 of 2019 pertaining to approval U/s 33(2) (b) of ID Act had become infructuous.
- Further the W.A.(MD) No.71 of 2019 needs to be allowed setting aside the order dated 04.12.2018 in W.P.(MD) No.18821 of 2015, but with the direction to the appellant to reinstate the Respondent without back wages but with continuity of services to pass orders of modifying the punishment as one of one stage reduction of pay instead of dismissal from service.

Aggrieving the above terms the parties have signed this join memo.”

4. The learned counsel appearing on either sides submitted that both the Writ Appeals may be disposed of in terms of the above joint memo. Accordingly, by recording the above said joint memo,



both the Writ Appeals are disposed of in terms of the above joint memo. No costs. Consequently, connected miscellaneous petitions are closed. The Management shall implement the terms of the joint memo within a period of two(02) weeks from the date of receipt of a copy of this order.

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Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

To

The Special Deputy Commissioner of Labour,
Chennai 600 006

+1 +1cc to Mr.VR.Shanmuganathan,Advocate, SR.No. 79020

Common Judgment made in
W.A. (MD) Nos.92 of 2019 &
71 of 2019
Dated:
29.07.2019

sts

JMN(16.08.2019) 4P : 3C