



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2019

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .4263 of 2015

and

M.P. (MD) No.1 of 2015

The Management,
Tamil Nadu State Transport Corporation
(Karaikudi Division) Limited,
Marudhupathi,
Managiri Road,
Karaikudi-630 307.

... Petitioner

-vs-

1.S.Marudhupandian

2.The Presiding Officer,
Labour Court,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relates to the impugned order passed by the second respondent herein dated 21.08.2013 in I.D.No.2 of 2012, quash the same.

For Petitioner : Mr.D.Sivaraman

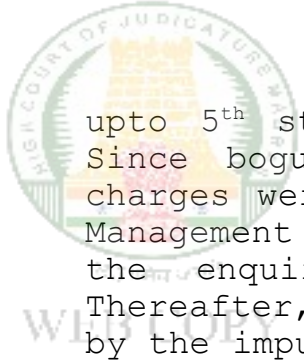
For Respondent : Mr.D.Imran
for M/s.Ajmal Associates

ORDER

The instant writ petition has been filed challenging the impugned award passed by the second respondent/Labour Court in I.D.No.2 of 2012, dated 21.08.2013.

2.The brief facts leading to filling of this writ petition are as follows:-

2.1.The petitioner Management has filed this writ petition. According to them, the first respondent was employed by them as a Driver in 1986. The certificates produced by the first respondent at the time of joining employment in the year 1986 discloses that he had completed 8th standard at Panchayat Union higher Secondary School, Periyakannur. But later on, in the year 2004, it was found that the said certificate is a bogus certificate as it was admitted by the first respondent that he has studied only



upto 5th standard at Saint Susaiappar Primary School, Sivagangai. Since bogus certificate was submitted by the first respondent, charges were framed against the first respondent by the petitioner Management in the year 2004 and charges were proved against him by the enquiry officer appointed by the petitioner Management. Thereafter, the first respondent had approached the Labour Court and by the impugned award, the petitioner Management dismissed the first respondent from his service on 21.05.2005. Challenging the dismissal order passed by the petitioner Management on 21.05.2005, the first respondent filed a petition under Section 2 A (2) of the Industrial Dispute Act before the second respondent/Labour Court, claiming reinstatement with continuity of service, backwages and other attendant benefits.

2.2.The second respondent/Labour Court, by its award dated 21.08.2013 in I.D.No.02 of 2012 held that the punishment imposed on the first respondent is not justified and the petitioner Management was directed to pay terminal benefits and other benefits which the petitioner was legally entitled to within a period of three months from the date of receipt of a copy of the award and the ID petition was dismissed in other aspects. Under the impugned award, since the first respondent had already attained superannuation, reinstatement and backwages were also not ordered. Aggrieved by the award dated 21.08.2013 passed by the second respondent Labour Court in I.D.No.02 of 2012, the instant writ petition has been filed.

3.Heard Mr.D.Sivaraman, learned counsel for the petitioner and Mr.M.D.Imran, learned counsel appearing for the respondents.

4.According to the learned counsel for the petitioner, based on complaints received from various persons, the certificates produced by the first respondent to the petitioner Management at the time of joining employment in the year 1986 were found to be bogus certificates.

5.After investigation, according to the learned counsel for the petitioner Management, the first respondent was directed to produce the original certificates which were produced by him at the time of joining service.

6.According to the learned counsel for the petitioner, At request of the petitioner Management, the first respondent produced the original certificates regarding his educational qualification. As seen from the said certificate, it was found that the petitioner is having only 5th standard qualification that too from a different school, namely, Saint Susaiappar Primary School, Sivagangai, whereas the certificates submitted at the time of joining service in the year 1986 were issued by the Panchayat Union Higher Secondary School, Periyakannur.

7.The learned counsel appearing for the petitioner Management drew the attention of this Court to the said certificates and



submitted that being bogus certificate, the enquiry officer came to the conclusion that the charges levelled against the first respondent by the petitioner Management were proved.

8. According to the learned counsel for the petitioner, the Labour Court has erroneously given a finding that the first respondent cannot be dismissed from service, since he has satisfied the minimum educational requirement for a Driver, as admittedly he was having 5th standard qualification, when he joined service on 30.12.1986 with the petitioner Management.

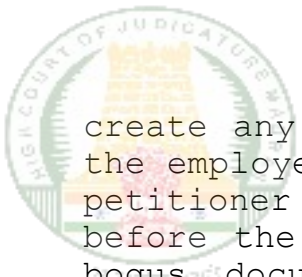
9. The learned counsel appearing for the petitioner drew the attention of this court to the record sheet issued by the Headmaster of the Panchayat Union Higher Secondary School, Periyakannur, which was submitted at the time of first respondent getting the employment in the year 1986.

10. The learned counsel appearing for the petitioner also drew the attention of this Court to the record sheet (Mark Sheet) submitted by the first respondent in the year 2004, after the petitioner Management investigated as to whether the original record sheet submitted in the year 1986 is genuine or not.

11. According to the learned counsel for the petitioner, as seen from the record sheet submitted in the year 2004, the first respondent has studied in a different school namely, Saint Susaiappar Primary School, Sivagangai, whereas, as per the record sheet submitted in the year 1986, the first respondent had studied at Panchayat Union Higher Secondary School, Periyakannur. He also drew the attention of this Court to the findings of the labour Court and the impugned award.

12. According to the learned counsel for the petitioner, as seen from the impugned award, even though the findings of the Enquiry Officer was confirmed by the Labour Court, the Labour Court has erroneously come to the conclusion that the punishment imposed on the first respondent is not justified and the petitioner was directed to pay terminal benefits and other benefits which, the first respondent is entitled to within three months from the date of receipt of a copy of the Labour Court award on the ground that as seen from the record sheet submitted by the first respondent in the year 2004, the first respondent has satisfied the minimum educational qualification namely, 5th standard qualification for getting employment as a Driver in the year 1986.

13. The learned counsel appearing for the petitioner Management drew the attention of this Court to the Judgment of the Hon'ble Supreme Court in the case of **Union of India and others Vs. M.Baskaran and Union of India and others Vs. G.Radhakrishnan**, reported in **1995 Supp (4) SCC 100**, in particular, he referred to Paragraph 6 of the said judgment and submitted that based on bogus and forged records, mere long continuance of such employment cannot



create any equity in favour of the workmen or any estoppel against the employer. Therefore, according to him, in the instant case, the petitioner has established before the Enquiry Officer as well as before the labour Court that the first respondent who had produced bogus documents for the purpose of seeking employment, is not entitled to any monetary benefits as directed by the Labour Court under the impugned award.

14. Per contra, the learned counsel appearing for the first respondent would submit that the first respondent has satisfied the minimum educational requirement for getting employment as a Driver in the year 1986, namely, 5th standard qualification. According to him, the Labour Court has rightly concluded that the first respondent is entitled for monetary benefits after his superannuation.

15. The learned counsel appearing for the first respondent also drew the attention of this Court to the Judgment of the Hon'ble Supreme Court in the case of **P.V.Mahadevan Vs. M.D., Tamil Nadu Housing Board**, reported in **2005 (4) CTC 403**, in particular, he referred to Paragraph Nos.10 to 15 of the said judgment and submitted that the charges framed against the first respondent by the petitioner Management after a very long delay, cannot be accepted.

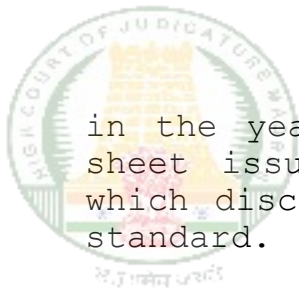
Discussion:-

16. It is an admitted fact that the first respondent has satisfied the minimum educational requirement for getting employment as a Driver with the petitioner Management in the year 1986. The minimum educational requirement as stipulated by the petitioner Management is 5th standard qualification. The first respondent was in continuous service with the petitioner Management ever since 1986 till 2004.

17. According to the learned counsel for the petitioner Management, various complaints were received against the employees of the petitioner Management and based on those complaints, all the records were once again scrutinized and investigation was conducted and based on the said investigation, it was found that the petitioner had submitted bogus certificates with the petitioner Management for getting employment as a Driver in the year 1986. After coming to know about the submission of the bogus certificates, they framed charges against the first respondent in the year 2004. The only charge framed against the first respondent is that the record sheet attached with the mark sheet submitted in the year 1986 by the first respondent to the petitioner Management is a bogus document.

18. Admittedly, the first respondent is only a Driver and the minimum educational requirement was only 5th standard qualification.

19. At the instance of the petitioner Management, the first respondent instead of producing the original record sheet submitted



in the year 1986, produced another document namely another record sheet issued by the Saint Susaiappar Primary School, Sivagangai, which discloses that the first respondent has studied only upto 5th standard.

20. These facts were undisputed even by the first respondent and were taken note of both by the enquiry officer in the domestic enquiry proceedings initiated by the petitioner Management as well as by the Labour Court under the impugned award and only thereafter, the impugned award was passed wherein, the second respondent/Labour Court held that since the first respondent has already superannuated from service, the punishment imposed on the first respondent is not justified and the petitioner Management was directed to pay terminal benefits and other benefits which the first respondent is legally entitled to within three months from the date of receipt of a Labour Court award.

21. The first respondent is employed as a Driver in the year 1986 but the charges were framed against him only in the year 2004 after a lapse of 18 years. The petitioner Management could have very well verified the genuineness of the certificate produced by the first respondent even at the time of his joining service or atleast within a reasonable time thereafter. But in the instant case, there is an enormous delay in initiating the disciplinary proceedings against the first respondent by the petitioner Management that too after a lapse of 18 years. No reasons have been given by the petitioner Management either before the Enquiry Officer or before the second respondent/Labour Court for the said enormous delay as to why the certificates submitted by the first respondent were not scrutinized and verified earlier. Further, both before the enquiry officer as well as before the Labour Court, the person who had given a complaint or the name of the person who gave complaint has not been mentioned, nor was he examined as a witness.

22. The Judgement relied upon by the learned counsel for the petitioner reported in **1995 Supp (4) SCC 100** in the case of **Union of India and others Vs. M. Bhaskaran**, is not applicable to the facts of the instant case. In that Judgment, it related to casual workers and not permanent employees. But in the instant case, the first respondent was a regular employee of the petitioner Management ever since 1986, was terminated from service by the petitioner Management only based on the charges framed in the year 2004 after a lapse of almost 18 years.

23. The Judgment relied upon by the learned counsel for the first respondent reported in **2005 (4) CTC 403** in the case of **P.V. Mahadevan Vs. M.D., Tamil Housing Board** is squarely applicable to the facts of the present case and in that Judgment also, the charges were initiated in the year 2000 in respect of act alleged to have been committed in 1990, whereas, lapses came to light in the audit report in 1994-1995 itself and the Hon'ble Supreme Court held that the reasons for delay is not acceptable.



24. In the instant case also, the documents were submitted in the year 1986 itself by the first respondent, whereas, charges were framed against the first respondent by the petitioner Management only in the year 2004 after a long lapse of 18 years. Further, no reasons were given by the petitioner Management either before the enquiry officer or before the Labour Court as to why, the documents submitted by the first respondent were not scrutinized and verified earlier.

25. For the foregoing reasons, this Court is of the view that there is no merit in this writ petition. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

To

The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.D.SIVARAMAN, Advocate in SR-58381

+1 CC to M/s.AJMAL ASSOCIATES, Advocate in SR-58255

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and
M.P. (MD) No.1 of 2015
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