



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2019

CORAM:

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE Mrs.JUSTICE R.THARANI

W.A. (MD) .No.1005 of 2019

and

CMP (MD) No.9189 of 2019

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

... Appellan/1st Respondent

Vs.

1.S.Maruthupandian

...1st Respondent/Petitioner

2.The Presiding Officer,
Labour Court,
Madurai.

... 2nd Respondent/2nd Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P.(MD).No.4263 of 2015, dated 01.04.2019.

Prayer in WP(MD). 4263/ 2015 :

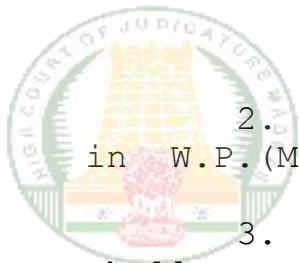
Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records relates to the impugned order passed by the 2nd respondent herein dated 21.08.2013 in I.D. No.2 of 2012, quash the same.

For Appellant : Mr.D.Sivaraman

JUDGMENT

(Order of this Court was made by **T.S.SIVAGNANAM, J**)

We have elaborately heard Mr.D.Sivaraman learned standing counsel appearing for the appellant.



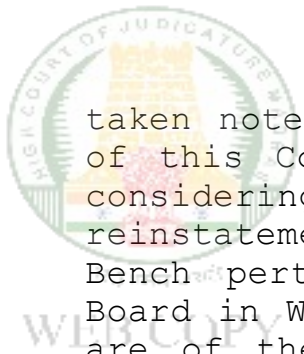
2. This appeal is directed against the order and direction in W.P.(MD).No.4263 of 2015, dated 01.04.2019.

3. The appellant Management was the writ petitioner and the challenge was to an Award of the Labour Court, Madurai, in I.D.No.2 of 2012, dated 21.08.2013, in a dispute raised by the 1st respondent workman. The 1st respondent was appointed as a driver in the appellant Corporation in the year 1986. At the time, when the workman joined employment, he had produced certificate to the effect that he has completed 8th Standard at Panchayat Union Higher Secondary School, Periyakannu. After about 18 years, verification appears to have been done and the appellant Management found that the workman has studied only upto 5th standard at Saint Susaiappar Primary School, Sivagangai and therefore, charge memo was issued to the workman in the year 2004. The charge proceedings ultimately ended in an order of dismissal from service on 21.05.2005. Challenging the same, the workman raised a dispute. The Labour Court, after considering the oral and documentary evidence, held that the punishment imposed on the workman is not justified and accordingly, directed the workman to be reinstated along with all benefits. This Award was put to challenge in the writ petition and the writ petition has been dismissed by the impugned order.

4. The learned counsel appearing for the appellant would strenuously contend that the writ court has exceeded its jurisdiction and examined the correctness of the Award, as if it is the writ petition filed by the workman whereas, it is the Management which are come before this Court by filing the Writ Petition. It is further submitted that the charge having been established by a validly conducted domestic enquiry, the Labour Court was not justified in interfering with the punishment imposed on the workman and when the Award passed by the Labour Court suffers from perversity, the learned writ court ought to have interfered with the impugned award.

5. The learned Writ Court took into consideration that the charge proceedings were initiated after the lapse of 14 years and the delay was found to be inordinate and unexplained and therefore, the Writ Court noted that the appellant Management did not have any reasons to explain the inordinate delay satisfactorily and no reasons were placed before the enquiry officer or before the Labour Court for the enormous delay, as to why the certificate submitted by the workman was not scrutinized and verified earlier. The learned Writ Court also considered the various decisions referred to by the appellant Management and rightly distinguished the same.

6. In our considered view, the Labour Court had rightly



taken note of the various decisions passed by the Division Bench of this Court wherein in more or less identical circumstances considering the nature of employment involved directed reinstatement of such workman. One such decision of the Division Bench pertains to the employees of the Tamil Nadu Electricity Board in W.P.(MD)No16521 of 2002, dated 05.02.2003. Therefore, we are of the considered view that there is no perversity of the findings of the Labour Court and in the peculiar facts and circumstances of the case, the Labour Court had granted the relief to the workman. This Award was tested for its correctness by the learned Writ Court and the Writ Court has recorded independent reasons in support of its conclusions as to why the Award does not call for interference. Therefore, in the absence of any error of law in the approach of the learned Writ Court or the Labour Court, we do not find any reason to entertain this appeal. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

MPK

To

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

2.The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-91423[F] dated
04/10/2019)

W.A. (MD) .No.1005 of 2019
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