



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD) No.2674 of 2014

P.Ayyavu

... Petitioner

-Vs-

1.The Presiding Officer

Labour Court, Madurai -20

2.The Management

State Express Transport Corporation Tamil Nadu Ltd.,

Chennai through its General Manager

Chennai 2

3.The Branch Manager

State Express Transport Corporation Tamil Nadu Ltd.,

Madurai

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records of the 1st respondent relating to the award passed in I.D.No.9/2011 dated 30.11.2011 and quash the same insofar the denial of back wages for the entire non-employment period and denial of continuity of service for the period from 25.01.2003 to 09.03.2011 and other service benefits.

For Petitioner : Mr.S.Govindan

For R1 : Court

For R2 & R3 : Mr.A.Jeyaram

ORDER

The Writ petition has been filed to call for the records of the 1st respondent relating to the award passed in I.D.No.9/2011 dated 30.11.2011 and quash the same insofar the denial of back wages for the entire non-employment period and denial of continuity of service for the period from 25.01.2003 to 09.03.2011 and other service benefits.

2.The learned counsel for the petitioner would submit that he was appointed as Junior Tradesman during the year 1985. He had been working there for 18 years. While so, the respondent issued a charge memo on 13.08.2001 alleging that he was absent from duty from 09.08.2001 without getting prior permission. Hence, the respondent Corporation dismissed the petitioner from service from 25.01.2003. The contention of the petitioner is that due to severe stomach pain, he was taking treatment and hence, he applied leave on medical grounds along with Medical Certificate and also informed the Management through telegram. But, without considering the petitioner's explanation, the respondent Corporation issued a show cause notice and dismissed the petitioner from service from 25.01.2003. Hence, the petitioner raised an Industrial Dispute in I.D.No.9/2011 before the Labour Court, Madurai. After hearing the case, the Labour Court set aside the order of dismissal by an order



dated 30.11.2011 and directed the respondents to reinstate the petitioner with continuity of service, except from the date of dismissal i.e from 25.01.2003 to 09.03.2011, within a period of three months from the date of receipt of a copy of the order. Aggrieved against the said order, the petitioner is before this Court.

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3.The respondents filed a counter affidavit. The learned counsel appearing for the respondents 2 and 3 would submit that the petitioner was absent from duty from 09.08.2001 continuously, without prior intimation. Hence, charges were framed against the petitioner and his explanation called for. The explanation submitted by the petitioner was not satisfactory. Therefore, a domestic enquiry was conducted by adopting the principles of natural justice and extending reasonable opportunities. Accordingly, the petitioner participated in the enquiry and the Enquiry Officer submitted his report, in which, charges levelled against the petitioner were proved. Based on the findings of the Enquiry Officer and the previous service records of the petitioner, he was dismissed from service. The petitioner did not challenge the order of dismissal passed by the Management till March 2011. After a period of 8 years from the date of passing of the dismissal order, the petitioner raised an industrial dispute before the first respondent. After hearing the case, the Labour Court, Madurai directed the respondent Management to reinstate the petitioner with continuity of service except the period from 25.01.2003 to March 2011. Accordingly, the petitioner was reinstated into service. Once the order of the first respondent was implemented by the respondents 2 and 3 on the request of the petitioner, challenging the order of the first respondent by this Writ petition is not at all acceptable one. Hence, he prays for dismissing this Writ petition.

4.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 2 and 3.

5. Admittedly the petitioner has challenged the dismissal order after a period of 8 years and it is a specific finding of the learned Judge that the delay in raising the Industrial dispute has been attributed against the petitioner himself, even though the Labour Court granted the relief of reinstatement by excluding the period between 25.01.2003 to 09.03.2011. The Industrial dispute itself has been raised after a period of 8 years. But even then the respondent has viewed the case of the petitioner sympathetically and on his request the order was already implemented without filing any appeal. Now again after accepting the award passed in I.D.No.9 of 2011 and after the delay of two years and after getting the I.D. order implemented, the petitioner has challenged the I.D. order in so far as the denial of back wages for the entire non-employment period and denial of continuity of service for the petitioner from 25.01.2003 to 09.03.2011 and other service benefits.



6.Perusal of record shows that the respondents issued a charge memo dated 13.08.2001 to the petitioner, stating that he was absent from duty from 09.08.2001, without getting prior permission. The explanation submitted by the petitioner was not accepted by the respondents. Hence, a domestic enquiry was conducted. After conducting enquiry, the Enquiry Officer gave findings that the charges levelled against the petitioner were proved. According to the respondents, the service records of the petitioner were very bad. A second show cause notice was issued to the petitioner and as the explanation submitted by the petitioner was not satisfactory, he was dismissed from service on 25.01.2003. Against which, the petitioner raised an industrial dispute only in the year 2011. After hearing the case, the Labour Court has given a finding that the petitioner is entitled for reinstatement with continuity of service except the period from 25.01.2003 to 09.03.2011. Though the copy of the medical certificate along with copy of acknowledgement were filed by the petitioner before this Court, the acknowledgement date was not clear. Be that as it may, it is an admitted fact that the petitioner has not raised the industrial dispute immediately after dismissal from service and he has raised the industrial dispute after a period of 8 years, for which, he has not given any explanation for the said delay. The respondents also considering the case of the petitioner and his request sympathetically, reinstated him into service. Without filing appeal, after reinstatement of two years, the petitioner has come forward with this petition which I am not inclined to entertain.

7.For the above reasons, this Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

msa

To

1.The Presiding Officer

Labour Court, Madurai -20

2.The General Manager,

Management State Express Transport Corporation Tamil Nadu Ltd.,
Chennai 2

3.The Branch Manager

State Express Transport Corporation Tamil Nadu Ltd., Madurai

+1 CC to M/s.M/S.S.GOVINDAN, Advocate (SR-105037[F]

+1 CC to M/s.A.JEYARAM, Advocate (SR-105346[F] dated 17/12/2019)

W.P. (MD) No.2674 of 2014

13.12.2019

SMA/28/01/2020/3P/6C

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