



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.21428 of 2019

and

W.M.P (MD)No.18100 of 2019

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S.J.Stalin

... Petitioner

Vs.

The Management of Tamil Nadu
State Transport Corporation (Kumbakonam) Ltd.,
Pudukottai Region,
Rep. by its General Manager,
Pudukottai.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records from the respondent dated 22.12.2017 passed in Ref.TNSTC/Kumba/Puma/0812/2017 in so far as denying back wage and other attendant benefits to the petitioner for the period from the date of the award of the Labour Court dated 28.02.2011 in I.D.No.148/2004 to the date of his reinstatement, quash the same and consequently direct the respondent to pay him all service benefits, namely wages, increment, review etc., for the period 28.02.2011 to 02.01.18 and accordingly re-fix his scale of pay from the date of his reinstatement and to pay the arrears of wages and all consequential benefits, award cost.

For Petitioner : Mr.S.Arunachalam

For Respondents : Mr.D.Sivaraman, TNSTC

ORDER

This writ petition is filed challenging the order of the respondent dated 22.12.2017, passed in Ref.TNSTC/Kumba/Puma/0812/2017 insofar as denying back wages and other attendant benefits to the petitioner for the period from the date of the award of the Labour Court dated 28.02.2011 in I.D.No.148/2004 to the date of his reinstatement and direct the respondent to pay him all service benefits, namely, wages, increment, review etc., for the period from 28.02.2011 to 02.01.18 and accordingly, re-fix his scale of pay from the date of his reinstatement and to pay the arrears of wages and all consequential benefits and award cost.

2. The petitioner was dismissed from service on 20.08.2001 for misappropriation of funds. In the Industrial Dispute raised by the petitioner, order of termination was set aside and he was ordered to be reinstated with continuity of service, but without back wages and attendant benefits. The order of dismissal was modified by the



Labour Court in I.D.No.148 of 2004, as stoppage of increment for one year with cumulative effect. The respondent filed W.P(MD)No.1742 of 2012 before this Court challenging the said award of the Labour Court. The said writ petition was dismissed by the order dated 22.02.2017, confirming the award of the Labour Court. After dismissal of the writ petition, the respondent reinstated the petitioner into service. The petitioner joined duty on 3.1.2018.

3. According to the petitioner, the respondent did not fix salary payable to him and also not paid the attendant benefits. In addition to that, his employment number also changed. The petitioner can approach the Labour Court by filing petition under Section 33(c)(2) of the Industrial Disputes Act from the date of award till the date of reinstatement. The petitioner has come out with the present writ petition claiming attendant benefits from the date of award to till the date of reinstatement.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

5. From the impugned order of the respondent, it is seen that the respondent has changed the employment number of the petitioner. When the Labour Court ordered continuity of service, which is confirmed by this Court, the respondent had erred in changing the employment number. The Labour Court has ordered reinstatement with continuity of service without back wages and attendant benefits. When the continuity of service is ordered, the petitioner is entitled to the scale of pay as though he was continued in service from the date of dismissal till the date of award. Therefore, the respondent is directed to fix the scale of the petitioner, which his immediate junior, has received and pass orders. The respondent is directed to restore the original employment number to the petitioner within a period of two weeks from the date of receipt of a copy of this order. Further, the respondent is directed to fix the scale of pay by granting continuity of service and pass orders, within a period of four weeks thereafter. It is open to the petitioner to approach the competent Labour Court under Section 33(c)(2) of the Industrial Disputes Act for monetary benefits, based on the award of the Labour Court.

6. In the result, the writ petition is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

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Sub Assistant Registrar(CS)



Am

+1 CC to Mr.S.ARUNACHALAM, Advocate (SR-93459[F] dated 22/10/2019)

+1 CC to Mr.D.SIVARAMAN, Advocate (SR-93609[F] dated 22/10/2019)

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