



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD) No.25546 of 2019

and

W.P. (MD) No.25549 of 2019

W.P (MD) No.25546 of 2019

K.Kasirajan

... Petitioner

-Vs-

The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Region, Bye Pass Road,
Madurai-625 010.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Hon'ble Labour Court, Madurai to number the petitioner's Claim Petition filed in I.D.SR.No.2583 dated 07.11.2017 and consequently direct the Hon'ble Labour Court, Madurai to dispose the petitioner case within a stipulated time.

W.P (MD) No.25549 of 2019

R.Muthukrishnan

... Petitioner

-Vs-

The General Manager,
Tamilnadu State Transport Corporation Ltd.,
Madurai Region, Bye Pass Road,
Madurai-625 010.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the Hon'ble Labour Court, Madurai to number the petitioner's Claim Petition filed in I.D.SR.No.2584 dated 07.11.2017 and consequently direct the Hon'ble Labour Court, Madurai to dispose the petitioner case within a stipulated time.

For Petitioners : Mr.M.Saravanakumar
For Respondent : Mr.J.Senthil Kumaraiah
(In Both Cases)



COMMON ORDER

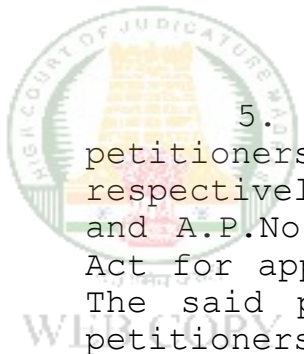
Since the issues involved in both the Writ Petitions are one and the same, both the Writ Petitions are heard together and disposed of by way of this common order.

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2. These writ petitions are filed for a direction to the Labour Court, Madurai, to number the petitioners' Claim Petitions filed in I.D.SR.No.2583 & 2584, dated 07.11.2017 and consequently, direct the Labour Court, Madurai, to dispose the petitioners case within a stipulated time.

3. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondents and perused the materials available on record.

4. According to the petitioners, they joined duty as Driver in the respondent Transport Corporation on 01.01.1994 and 28.05.1999 respectively. Due to ill-health, without getting prior permission, the petitioners were on leave up to 10 days from 19.07.2012 and 18.10.2011 respectively. The leave taken by the petitioners is due to their ill-health and due to family circumstances. Without considering the medical certificate, the respondent issued a charge memo, dated 04.09.2012 and 10.11.2011 to the petitioners respectively. The petitioners submitted their explanation. Without considering the said explanations, the respondent appointed an Enquiry Officer. The Enquiry Officer without providing an opportunity to the petitioners filed the enquiry report on the same day. The respondent issued show cause notice with predetermination of mind and thereby, stated that as to why the petitioners services should not be terminated and further directed them to submit their explanation within 72 hours from the date of receipt of copy of the notice. Accordingly, the petitioners submitted their explanations. The respondent without considering any such factors, passed final orders and dismissed the petitioners from service. The respondent filed an application in A.P.No.7 of 2013 and A.P.No.279 of 2012 for approval of the dismissal order passed against the petitioners before the Special Deputy Commissioner of Labour, Chennai, under Section 33(2) of Industrial Disputes Act. The said petitions were allowed on 29.04.2014. Therefore, petitioners approached the Commissioner for Labour, for conciliation and the same has ended in vain. The petitioners also raised Industrial Dispute before the Labour Court, Madurai on 07.11.2017. The Labour Court, Madurai, without considering the orders passed in the approval petition, failure report submitted by the Conciliation Officer, returned the I.D., on the ground that they did not raise the dispute, within three years from the date of dismissal. Against the said return, the petitioners have come out with the present writ petitions.



5. From the materials on record, it is seen that the petitioners were dismissed from service on 19.02.2013 and 03.11.2012 respectively. The respondent filed petitions in A.P.No.7 of 2013 and A.P.No.279 of 2012 under Section 33(2) of Industrial Disputes Act for approval of dismissal order passed against the petitioners. The said petitions were allowed on 29.04.2014. Thereafter, the petitioners approached the Labour Commissioner for Conciliation and the same has ended in vain on 07.04.2015. The petitioners raised Industrial Dispute before the Labour Court, Madurai on 07.11.2017. The Labour Court, Madurai without considering the order passed in the approval petition, failure report submitted by the Conciliation Officer, returned the Industrial Dispute Petitions on the ground that the petitioners did not raise dispute within three years from the date of dismissal order. The said reasoning is found to be erroneous and unsustainable. The reason given by the Labour Court, Madurai is not correct. Therefore, the petitioners are directed to re-present the I.D.SR.Nos.2583 and 2584, within two weeks from the date of receipt of a copy of this order. On such re-presentation the Labour Court, Madurai is directed to take the same on file if it is otherwise in order and dispose the same in accordance with law, within a period of four weeks thereafter.

6. With the above directions, both the writ petitions are disposed of. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

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Sub Assistant Registrar(CS)

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+1 CC to M/s.M. SARAVANAKUMAR, Advocate (SR-102606& 102607 [F]
dated 29/11/2019)

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and
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29.11.2019

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