

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2020

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.42212 of 2016

and

WMP Nos.36116 of 2016 and 23853 of 2018

The Management of
Tamilnadu State Transport Corporation Ltd.,
Coimbatore 43,
Rep. by the Managing Director. ...Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
DMS Compound,
Chennai 600 006.

2.T.Gopalakrishnan

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari to call for the records of the first respondent made in A.P.No.507 of 2012 dated 11.04.2014 consequently quash the same.

For Petitioner : Mr.P.Kannankumar

For Respondents: Mr.D.Suryanarayanan for R1
Additional Government Pleader
Mr.V.Ajoy Khose for R2

O R D E R

This writ petition is filed challenging the order of the first respondent in rejecting the approval petition.

2. Heard both sides.

3. The second respondent was working as Conductor in the petitioner Corporation. He was issued with charge memo that he reissued four tickets to the passengers and that he was in possession of excessive amount of Rs.105/-. A domestic enquiry was conducted where the charges were found proved. Thereafter,

the second respondent was dismissed from service by order dated 16.06.2012. The petitioner Management filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947 for approval of the dismissal, since there was an industrial dispute pending before the Joint Commissioner of Labour (Conciliation) at that point of time. The said Authority rejected the said application on the reason that the enquiry conducted by the Management was not in accordance with the principles of natural justice as well as by following due procedures. The Authority found that the concerned passengers to whom the second respondent was charged to have given used tickets, were not examined. Though such an order was passed by the first respondent on 11.04.2014 and the petitioner has chosen to file this writ petition after a period of two years, in between, the second respondent was reinstated into service by the petitioner Management on 14.07.2015. Therefore, it is evident that even before filing the writ petition challenging the order refusing to grant the approval, the second respondent was reinstated into service by the petitioner Management. It is also an admitted fact that the second respondent is continuously working from 14.07.2015 onwards.

4. Learned counsel for the second respondent Workman submitted that since he is reinstated into service on 14.07.2015 and he is discharging his duties even as on today, he should be permitted to continue in the service, as the second respondent will not insist for backwages for the non service period viz., from the date of dismissal to the date of reinstatement.

5. Learned counsel appearing for the Management is not disputing the fact of reinstatement and the continuous service of the second respondent.

6. Considering the above stated facts and circumstances, more particularly, the reasons given by the first respondent in refusing to grant approval and also considering the fact that the Management itself has chosen to reinstate the second respondent even before approaching this Court, I find that the writ petition can be disposed of under certain terms.

7. Accordingly, the writ petition is disposed of with the following terms and conditions:

a) The second respondent shall be permitted to continue in service by paying the current wages from the date of reinstatement viz, 14.07.2015;

b) The second respondent is not entitled for any backwages for the period between the date of dismissal viz, 16.06.2012 to the date of reinstatement viz., 14.07.2015.

c) Except the backwages, the other service benefits of the second respondent such as continuity of service, etc., for calculating the pensionary benefits shall be taken into account.

No costs. The connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

vri

To

The Special Deputy Commissioner of Labour,
DMS Compound,
Chennai 600 006.

+1 CC to Govt. Pleader sr 18232.

+1 CC to Mr.P.Kannankumar, Advocate sr 18032.

+1 CC to Mr.V.Ajoy Khose, Advocate sr 17659.

W.P.No.42212 of 2016

NRJK (CO)
SP (04/03/2020)

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