



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.P. (MD) No.2013 of 2013

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1. S.Tamilselvi,
W/o Late Senthilkumar.
2. S.Sonasri (Minor),
D/o Late Senthilkumar.
3. S.Srinithi (Minor),
D/o Late Senthilkumar, ...Petitioners
(2nd and 3rd petitioners are minor, represented by
1st petitioner mother guardian)

Vs

1. The Presiding Officer,
Labour Court,
Tiruchirappalli.
2. The Management of
Tamilnadu State Transport Corporation Kumbakonam Division II,
Now renamed as
Tamilnadu State Transport Corporation(Kumbakonam) Ltd,
Trichy Region,
Rep by its Managing Director,
Tiruchirappalli. ...Respondents

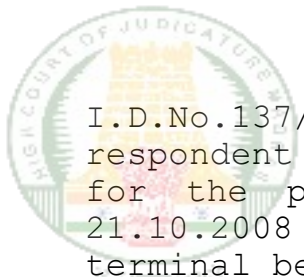
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, after calling for the records from the first respondent Labour Court relating to the impugned award dated 16.11.2006 of the first respondent passed in I.D.No.137/02, quash the same and consequently to direct the second respondent to pay the wages of the deceased employee S.Senthilkumar for the period from the date of dismissal ie 19.10.2001 to date of death ie.21.10.2008 and all other consequential and terminal benefits to them.

For Petitioners : Mr.S.Arunachalam

For Respondents : For R2 - Mr.K.Sathya Singh

O R D E R

This Writ Petition is filed by the petitioner to call for the records from the first respondent Labour Court relating to the impugned award dated 16.11.2006 of the first respondent passed in



I.D.No.137/02, quash the same and consequently to direct the second respondent to pay the wages of the deceased employee S.Senthilkumar for the period from 19.10.2001 ie the date of dismissal to 21.10.2008 ie the date of death and all other consequential and terminal benefits to them.

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2. The case of the petitioner is that while the first petitioner's husband /employee was working in the respondent's corporation, he has been issued with a charge memo dated 07.10.2000 alleging that he had committed misconduct in dealing with the bus pass, under Clauses 23(4) and 23(4) and 23(40) (a) of standing orders. Subsequently, enquiry was conducted and the enquiry officer has given his report dated 31.07.2001 stating that the alleged charge against the employee was proved. Without considering the explanation given by the employee, the second respondent has dismissed the employee from his services as per the order dated 19.10.2001. Subsequently, he raised an industrial dispute before the Assistant Commissioner of Labour (Conciliation), Trichy under Section 2(A) of I.D.Act. Since the second respondent did not come forward for an amicable settlement in the dispute, the conciliation was ended in failure. Hence, he preferred a case before the Labour Court, Trichy in ID.No.137 of 2002, which was dismissed on 16.11.2006. Thereafter, due to his illness, he died on 21.10.2008. Hence, the wife and daughters of the deceased employee have filed this Writ Petition seeking the relief to quash the impugned order, so that they can get benefits from the services of the deceased employee.

3. The learned counsel for the petitioners submitted that the deceased employee was entrusted with some duties, in which he was not acquainted. The learned counsel further submitted that in a similar case for misconduct of another employee namely N.Gokila, wherein misappropriation of huge amount of Rs.1,38,776/-was alleged, the punishment of dismissal imposed on the employee was reduced by the second respondent. Taking into consideration the petitioner's husband is no more, the learned counsel prays to modify the punishment imposed on the deceased employee.

4. The learned counsel for the second respondent submitted that during the tenure, petitioner's husband had committed 7 misconducts and he was awarded punishments for three occasions. Moreover, the first respondent herein/the Presiding Officer of the Labour Court has held that the charges against the petitioner are proved and hence the Industrial Disputed raised by the petitioner was dismissed. Hence, there is no need to interfere with the order passed by the first respondent.

5. Heard both sides and perused the documents.



6. Perusal of record shows that on the death of her husband, the present petitioner by way of the present Writ Petition had challenged the award passed by the Labour Court confirming the order dismissing her husband from service. This Court on perusal of record, finding no evidence, directed the learned counsel for the second respondent to produce the records to show the alleged misuse of the bus pass by the deceased employee and in what way he benefitted. But, no records were produced by the respondent to prove the said allegation. The learned Judge of the Labour Court has passed orders purely considering the previous punishment imposed on the deceased employee and without any proper evidence, has dismissed the claim by the deceased employee. The petitioners who are wife and minor children of the deceased employee have challenged the above order in the present writ petition. Considering the facts and circumstances of the case and considering the fact that the award has been challenged by the wife of the deceased employee and also considering the fact that the second respondent has not produced even a piece of evidence to show that the deceased employee had misused the bus pass by which he gained, I am inclined to interfere with the award passed by Labour Court.

7. Learned counsel for the petitioner would state that the petitioners are ready to forego the backwages. In my opinion, ends of justice would be met, if the petitioner's husband is directed to be reinstated into service without backwages but with continuity of service and allowed to retire on the date of superannuation notionally and the respondents are directed to settle all the retirement benefits of the deceased employee to the petitioners, after contributing the share of the deceased employee towards provident Fund.

8. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

vrn

To

1. The Presiding Officer,
Labour Court,
Tiruchirappalli.

<https://hcservices.ecourts.gov.in/hcservices/>



2. The Management of
Tamilnadu State Transport Corporation Kumbakonam Division II,
Now renamed as
Tamilnadu State Transport Corporation(Kumbakonam) Ltd,
Trichy Region,
Rep by its Managing Director,
Tiruchirappalli.

3.The Record Keeper,
V.R Section(for returning records).

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-8747[F] dated 27/02/2020
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W.P. (MD) No.2013 of 2013
26.02.2020

AP(01/06/2020) 4P 6C