



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.S.RAMESH

W.P.NO.10278 OF 2004

AND

W.M.P.NO.11990 OF 2004

The Tamil Nadu State Transport
Corporation (Coimbatore Division - I) Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.
Rep. By its Managing Director

... Petitioner

Vs

1. The Presiding Officer,
Labour Court,
Coimbatore.

2. K.Manikandan

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the 1st respondent in I.D.No.283 of 1998 dated 05.12.2002 and quash the same.

For Petitioner : Mr.A.Sundaravadanan

For R1 : Labour Court

For R2 : No Appearance

ORDER

The petitioner herein, who is the Tamil Nadu State Transport Corporation, has challenged the Award of the Labour Court, Coimbatore, whereby the petitioner was directed to reinstate the second respondent herein into service.

2. Though notice was served on the second respondent and his name is printed in the cause list, none appears on his behalf.



3. It is also seen that the writ petition has been listed on several occasions and was being adjourned on the ground that there is no representation for the second respondent. Even in the last two hearings i.e., on 16.04.2021 and 15.06.2021, the writ petition was adjourned only on the ground that there was no representation for the second respondent. It is in this background that the writ petition is listed today.

4. Since the second respondent has not shown any inclination to get along with the case, this Court is constrained to look into the merits of the impugned Award passed by the Labour Court.

5. A perusal of the Award reveals that the second respondent herein was originally engaged on contract basis and his appointment was also not regular. The second respondent's name was not sponsored by the Employment Exchange. The defence taken by the petitioner Corporation is that the second respondent was never their permanent employee and that he was originally engaged only as a trainee. Thereafter, he was discharged from service on 04.03.1988 onwards. When the second respondent had requested for extension of his service, the training was again extended to him from 16.06.1988 to 31.03.1989, on sympathy grounds. Likewise, between 29.01.1997 to 22.08.1997, he was temporarily employed as a Bus Cleaner. Apart from these intermittent engagement of his services, he was admittedly not employed with the petitioner-Corporation.

6. The Labour Court had taken into consideration the last service rendered by the second respondent herein as a Bus Cleaner and had directed to the petitioner Corporation to reinstate him and engage him for the services of a Bus Cleaner. There is absolutely no discussion with regard to the second respondent's regular appointment or his conferment of permanent status in the Award. The order of reinstatement seems to have been made more with a sympathetic approach rather than on a legal ground. As such, the Award passed by the Labour Court itself cannot be sustained.

7. The second respondent has now attempted to take advantage of the sympathy extended to him and had approached the Labour Court. Since the second respondent has neither chosen to appear before this Court nor has filed any counter affidavit, adducing his defences, this Court is unable to appreciate his case. However, if the second respondent is of the view that he has certain acceptable arguments to be advanced, liberty is hereby granted to him to file an application to review the present order, atleast within a period of 30 days from the date of receipt of a copy of this order.



8. With the above liberty, the writ petition stands allowed and consequently, the impugned Award dated 05.12.2002 passed by the Labour Court, Coimbatore is quashed. No costs. Consequently, connected miscellaneous petition is closed.

WEB COPY

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The Presiding Officer,
Labour Court,
Coimbatore.
2. The Managing Director,
The Tamil Nadu State Transport
Corporation (Coimbatore Division - I) Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.

W.P.NO.10278 OF 2004 AND
W.M.P.NO.11990 OF 2004

SRA(CO)
PBS/25/08/2021