



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.16823 OF 2015

AND

M.P.NO.1 OF 2015

The Management,
The Tamilnadu State Express
Transport Corporation,
Pallavan Salai,
Chennai - 600 002.
Rep. by its General Manager.

... Petitioner

-Vs-

1. A.Manoharan
2. The Special Deputy
Commissioner of Labour,
DMS Compound, Chennai.

... 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 passed by the 2nd respondent in A.P.No.478 of 2011 dated 25.09.2013 and to quash the same.

For Petitioner	:	Mr.K.Kathiresan
For R1	:	Mr.M.Loganathan
For R2	:	Mr.V.Selvaraj Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner-Transport Corporation, through its board meetings, had taken a decision to convert the punishments of



dismissal in unauthorized absence cases and fatal cases into one of compulsory retirement and thereby permitted the employees to receive the retirement benefits, as per the rules in force. Such a decision is reflected in the letter produced before this Court by the learned counsel for the petitioner in Letter No.5370/C2/2021, dated 24.07.2021 issued by the Additional Chief Secretary to Government, Transport (C.2) Department. The relevant clause in the said letter reads as follows:-

"2. There were 283 cases, except TNSTC (MDU), placed before the Board for discussion. After detailed deliberations, the following decisions were taken:-

(i) In respect of Ex-employees having required qualifying service for pension under 1998 scheme to go on compulsory retirement on the date of dismissal and to allow eligible retirement benefits as per rules in force."

3. In the present case, the charge against the first respondent herein was that he was unauthorizedly absent from service and accordingly, he was dismissed from the service on 11.11.2011. The approval petition filed by the Transport Corporation under Section 33(2)(b) of the Industrial Disputes Act was rejected by the second respondent on 25.09.2013.

4. In view of the decision taken by the Government to permit cases like that of the first respondent herein to go on compulsory retirement, as per the aforesaid letter dated 24.07.2021, the petitioner is also willing to accept the order of punishment to be modified into one of compulsory retirement. Such a statement is ratified by the learned counsel appearing for the first respondent also.

5. In the light of the above observations, the order of dismissal dated 11.11.2011, dismissing the first respondent from services, is quashed and consequently, the petitioner-Corporation is called upon to issue appropriate orders, by compulsorily retiring the first respondent herein from 11.11.2011 and thereby allow him to receive the eligible retirement benefits. The petitioner shall endeavour to pass such orders and disburse the monetary benefits, within a period of 8 weeks from the date of receipt of a copy of this order. In view of this order being passed, the first respondent herein would be entitled for continuity of service, as if he was never dismissed from his services at all. However, the first respondent herein shall not be entitled for payment of back wages for the period of his non-employment.



WEB COPY

6. The Writ Petition stands ordered, accordingly. No costs.
Consequently, connected miscellaneous petition is closed

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

hvk

To

1. The General Manager,
The Tamilnadu State Express
Transport Corporation,
Pallavan Salai,
Chennai - 600 002.
2. The Special Deputy
Commissioner of Labour,
DMS Compound, Chennai.

+1cc to Mr.K.Kathiresan, Advocate, S.R.No.68602

W.P.NO.16823 OF 2015 AND
M.P.NO.1 OF 2015

JPL(CO)
PBS/10/01/2022