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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.39706 of 2004

N.Kalaiazhagan

... Petitioner

-vs-

1. The Presiding Officer,
Labour Court,
Cuddalore.
2. The Management,
Tamil Nadu State Transport Corporation,
Represented by its
Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.
3. The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the Award dated in I.D.No.54/98 dated 25.06.2003 passed by the 1st Respondent and quash the same and issue consequential direction, directing the 3rd respondents to reinstate petitioner into service, with back wages and continuity of service, with all other attendant and monetary and other benefits, Award costs.

For Petitioner : Mr.V.S.Jagadeesan
for Mr.Rangaramanujam

For Respondents : Mr.C.S.K.Sathish (R2 & R3)

O R D E R

This Writ Petition has been filed challenging the award passed by the first respondent in I.D.No.54 of 1998 dated 25.06.2003, by which the Industrial Dispute raised by the



petitioner, challenging the order of removal from service passed against him on 19.10.1997 by the third respondent was dismissed and for a consequential direction directing the third respondent to reinstate the petitioner into service, with back wages and continuity of service, with all attendant, monetary and other benefits.

2. The case of the petitioner is that he was appointed as conductor under the Respondents Corporation vide proceedings of the second respondent dated 03.03.1992 and subsequently his services were also regularised. While so, the petitioner was issued with Charge Memo, for which he submitted his explanation on 20.06.1997. Not satisfied with the explanation, enquiry was conducted and without giving sufficient opportunity to the petitioner to prove his case, the petitioner was dismissed from service on 19.10.1997. Challenging the same, the petitioner raised industrial dispute in I.D.No.54 of 1998 on the file of the first respondent and the same was dismissed vide order dated 25.06.2003.

3. When the matter is taken up for hearing, it is represented by the learned counsel for the petitioner that the petitioner/employee is suffering from renal failure and he is taking treatment and therefore terminal benefits that is eligible to the petitioner may be directed to be granted to him.

4. Mr.Sathish learned counsel for the Management submitted that the employee had hardly rendered six years of service. Apart from 12 charges, the petitioner also suffered with punishment of dismissal from service on 08.07.1991 and thereafter reinstated into service and again terminated from service on 19.10.1997. He further agreed that terminal benefits due to the petitioner shall be released within a period of one month from the date of receipt of a copy of this order.

5. Heard both sides. Perused the records.

6. The Labour Court came to the conclusion that the charges against the employee were proved and dismissal was justified. The petitioner had 12 bad antecedents of misappropriation. But employer has not passed any order by invoking Section 4 (6) of the Payment of Gratuity Act, 1972 while dismissing the services of the petitioner to deprive gratuity. If the employee has completed 5 years of service and if Provident Fund amount is due for the services rendered, as agreed to by the learned counsel for the Transport Corporation, the terminal benefits including Provident Fund due to the petitioner shall be released to him within a period of one month from the date of receipt of a copy of this order. However, it is made clear that the employee will be entitled to the benefits upto the date of punishment and not thereafter.



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7. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Presiding Officer,
Labour Court,
Cuddalore.
2. The Managing Director,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.
3. The General Manager,
Tamil Nadu State Transport Corporation,
Villupuram Division,
Villupuram.

+1CC to Mr.C.S.K.Sathish, Advocate, Sr.No.37635

+1CC to Mr.R.Rengaramanujam, Advocate, Sr.No.37246

W.P.No.39706 of 2004

PMK (CO)

K.RK. (22.09.2021)