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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.08.2021

CORAM:

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

W.P.No.23466 of 2005

D.Badusha

...Petitioner

Vs

1. The Presiding Officer,
Labour Court,
Salem.
2. The Management of Tamilnadu
State Transport Corporation
(Salem Division-I) Ltd.,
12, Ramakrishna Road,
Salem-7
Rep. by its Managing Director.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to ID.No.370 of 2002 dated 21.06.2004 on the file of the first respondent and quash the same partially with regards to a portion of the award namely disallowing the claim of back wages and consequently direct the second respondent to pay the back wages from the date of dismissal till the date of award.

For Petitioner : Mr.Vijaya Srinivasan

For R1 : Labour Court

For R2 : Mr.D.Raghu,
Standing Counsel

ORDER

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

2. The petitioner herein had joined the services of the



second respondent-Corporation as a Conductor in the year 1989. From 03.12.2001 onwards, the petitioner had gone on leave, after submitting a leave letter. Thereafter, on 22.12.2001 and 25.02.2002, he had sought for extension of his leave.

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3. It is seen that on 12.03.2002, the petitioner had sought for assignment of work, which was denied by the respondent. However, it is claimed that the petitioner had not reported for duty thereafter. The reason assigned by the petitioner for the absence is that he was on some medical ailment. However, the respondent Corporation had not accepted the reason assigned by the petitioner and had dismissed him from the services, through an order dated 25.04.2002. Challenging the dismissal order, the petitioner had raised a dispute before the Labour Court and by the impugned Award dated 21.06.2004, the Labour Court had set aside the dismissal order without back wages but with continuity of services. The petitioner herein is aggrieved against the denial of back wages in the present petition.

4. A perusal of the reasoning adduced by the Labour Court in the Award is that, the petitioner herein had not adduced any evidences substantiating that he was suffering from medical ailment. However, the Labour Court seems to have taken a lenient view by passing an order of reinstatement with continuity of services.

5. When the petitioner had failed to substantiate as to why he was unauthorisedly absent, I do not find any reason to interfere with the Award of denial of the back wages. As a matter of fact, the Award, insofar as directing reinstatement of the petitioner with continuity of service, itself is a leniency shown in order to protect the interest of the workman. As such, there are no discrepancies or infirmity in the Award of the Labour Court.

6. The writ petition stands dismissed, accordingly. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy//

Sub Assistant Registrar

hvk



To

1. The Presiding Officer,
Labour Court,
Salem.

2. The Managing Director,
The Management of Tamilnadu
State Transport Corporation
(Salem Division-I) Ltd.,
12, Ramakrishna Road,
Salem-7.

+1cc to Mr.D.Raghu, Advocate, S.R.No.37954

+1cc to Mr.P.Ganesan, Advocate, S.R.No.37904

W.P.No.23466 of 2005

AK-II (CO)
SU(24/08/2021)