



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S. RAMESH

W.P. No. 6415 of 2021

and

W.M.P. No. 7006 of 2021

The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem - 636 007.

...Petitioner

Vs

I.Annadurai

...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the order dated 30.09.2019 passed by the Presiding Officer, Labour Court, Salem in I.D. No. 46 of 2015 and to quash the same.

For Petitioner : Mr.K.Thangam
for Mr.D.Raghu

For Respondent : No appearance

O R D E R

By impugned award dated 30.09.2019, the respondent was directed to reinstate the petitioner along with backwages and other attendant benefits with continuity of service.

2. The learned counsel for the petitioner would submit that this is the case where the respondent herein had admitted that he was unauthorizedly absent from 31.07.2012 onwards owing to medical ailments, which aspect could not be brought to the notice of the Labour Court. In this context, the learned counsel would make an earnest request to remit the matter back for reconsideration.

3. Though notice has been served on the respondent herein and his name printed in the cause list, none appears on his behalf.



4. Before the Labour Court, the Management witness RW1 had deposed that they have not produced the attendance register and that they were not in a position to substantiate the period of unauthorized absence and it is on this basis that the Labour Court had set aside the order of dismissal dated 27.09.2014 and directed for reinstatement with benefits. However, the learned counsel had produced a copy of the letter dated 25.11.2013 given by the respondent herein wherein the respondent had stated that he had remained absent from 31.07.2012, owing to medical ailments. Pursuant to the said letter, the petitioner Corporation had also permitted the respondent to join duty through the proceedings dated 28.12.2013. These documents produced before this Court may not prima facie be taken up as a conclusive proof for the purpose of interfering with the award, since the same required to be substantiated before the Labour Court, which course was not adopted by the petitioner. However, since this Court is of the view that the petitioner may have some documents in support of their defence, an opportunity can be given to them to substantiate the same before the Labour Court.

5. That apart, though the petitioner herein had let in evidence and marked these documents dated 25.11.2013 as Ex.R4 and 28.12.2013 as Ex.R5, the same have not been considered by the Labour Court. On this ground, it would be appropriate to direct the Labour Court to reconsider these documents.

6. It is made clear that this Court has not expressed any of its views on the validity or sanctity with regard to the letter dated 25.11.2013 or the petitioner's proceedings dated 28.12.2013 and that the Labour Court shall re-appreciate the petitioner's case, on the basis of the evidences available on record.

7. With such an observation, the impugned award dated 30.09.2019 on the file of the Presiding Officer, Labour Court, Salem is set aside and the Industrial Dispute in I.D. No. 46 of 2015 is remitted back to the Labour Court, Salem for reconsideration. The Labour Court shall recommence the proceedings from the stage of arguments and subsequently pass final orders, after considering all the oral and documentary evidences on either side, as expeditiously as possible and thereafter come to a final conclusion, without influenced by any of the findings rendered by this Court in this order.



8. Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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s/d-
Assistant Registrar (CS IV)

True Copy

Sub-Assistant Registrar

vji
To

1. The Managing Director,
Tamil Nadu State Transport Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem - 636 007.
2. The Presiding Officer,
Labour Court,
Salem.

+1 CC to Mr.D.Raghu, Advocate sr 51494.

W.P. No. 6415 of 2021
and
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RSI (CO)
SP(26/10/2021)