



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.15643 of 2018

The Management
Tamilnadu State Transport Corporation
(Salem) Limited,
Bharathipuram,
Salem Main Road,
Dharmapuri - 5.

...Petitioner

vs.

1. The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai, Chennai.

2. T.Dhanapal

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, call for the records pertaining to the order dated 04.11.2016 passed by the 1st Respondent in Approval Petition No.255 of 2013 and quash the same, consequently direct the 1st Respondent to approve the order of the Petitioner, dated 30.08.2013, dismissing the 2nd Respondent from service.

For Petitioner : Mr.D.Venkatachalam

For 1st Respondent : Mr.S.T.Varadarajulu,
(Amicus Curiae)

O R D E R

Petitioner/Transport Corporation has come up with this Writ Petition challenging the order dated 04.11.2016 passed by the 1st Respondent in Approval Petition No.255 of 2013 and for a consequential direction to the 1st Respondent to approve the order of the Petitioner dated 30.08.2013, dismissing the 2nd Respondent from service.

2. Heard the learned counsel for the Petitioner/Transport Corporation and Mr.S.T.Varadarajulu, learned counsel appearing as Amicus Curiae for the 2nd Respondent/employee, and perused the material documents available on record.

3. Admittedly, there is shortfall in payment of one month



wages to the 2nd Respondent/employee and that, the Petitioner/Transport Corporation has not filed an Application seeking to condone the delay of 13 days in filing the Approval Petition under Section 33(2)(b) of the Industrial Disputes Act, 1947. Hence, the 1st Respondent/Authority has rightly rejected the Petitioner's Approval Petition.

4. Today, Mr.S.T.Varadarajulu, learned counsel appearing as Amicus Curiae for the 2nd Respondent/employee, on instructions, submitted that, the employee is willing to accept reinstatement as permanent employee with continuity of service and other attendant benefits, but without backwages.

5. Learned counsel for the Petitioner/Transport Corporation submitted that, the Petitioner is willing to provide permanent employment to the 2nd Respondent/employee and grant other attendant benefits, except backwages.

6. Though the 2nd Respondent/employee is entitled to all the notional benefits including backwages as per the order of the Authority concerned, as there is no order of dismissal in the eye of law in view of the rejection of the Approval Petition, this Court, taking note of the submissions made by the learned counsel on either side, directs the Petitioner/Transport Corporation to provide permanent employment to the 2nd Respondent/employee on or before 15th September 2021, as the employee is deemed to be in service ever since the date of dismissal till today.

7. It is made clear that, the 2nd Respondent/employee will be entitled to all the notional benefits and other attendant benefits, except backwages, as if no order of dismissal has been passed against him and the said benefits shall be extended to him within a period of four months from the date of receipt of a copy of this order. However, for the non-employment period, the Employer and Employees' Contribution towards Provident Fund shall be contributed by the Petitioner/Transport Corporation, but without interest, which shall also be paid within four months from the date of receipt of a copy of this order.

The Writ Petition is dismissed with the above directions. No costs. Consequently, connected W.M.P.No.18580 of 2018 is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

(aeb)



To:

1. The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai,
Chennai.

2. The Management,
Tamilnadu State Transport Corporation,
(Salem Ltd.,)
Bharathipuram, Salem Main Road,
Dharmapuri.

W.P.No.15643 of 2018

BP (CO)
RGA (31/08/2021)