



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NOS.16987 OF 2018 AND 8697 OF 2015

AND

W.M.P.NOS.20238 OF 2018 AND 31619 OF 2019

AND

M.P.NO.1 OF 2015

The Management,  
Tamil Nadu State Transport Corporation  
(Coimbatore) Limited,  
Chennimalai Road,  
Erode-1.

... Petitioner in both W.Ps.

-vs-

1. Mr.R.Kandasamy ... 1<sup>st</sup> Respondent in  
W.P.No.16987 of 2018 and 2<sup>nd</sup> respondent in  
W.P.No.8697 of 2015
2. The Presiding Officer,  
Labour Court, Salem. ... 2<sup>nd</sup> respondent in W.P.No.16987 of 2018
3. The Presiding Officer,  
Labour Court,  
Coimbatore. ... 1<sup>st</sup> respondent in W.P.No.8697 of 2014

Prayer in W.P.No.16987 of 2018:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records relating to the order dated 13.03.2017 passed in C.P.No.35 of 2014 on the file of the 2<sup>nd</sup> Respondent and quash the same as being illegal, arbitrary and unconstitutional.

Prayer in W.P.No.8697 of 2015:

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for the records of the Labour Court, Coimbatore made in I.D.No.566 of 2004 dated 06.10.2012 and quash the same.



For Petitioner : Mr.R.Sundaravadanam  
For Respondents: Mr.K.V.Shanmuganathan  
(For R1 in W.P.No.16987 of 2018  
and R2 in W.P.No.8697 of 2015)

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C O M M O N O R D E R

The Petitioner/Management has come forward with the Writ Petition in W.P.No.16987 of 2018, challenging the order dated 13.03.2017 passed by the Labour Court, Salem in C.P.No.35 of 2014. In W.P.No.8697 of 2015, the Management has questioned the award of the Labour Court, Coimbatore dated 06.10.2021 made in I.D.No.566 of 2004, by which the Workman was ordered to be reinstated with continuity of service with 40% of backwages.

2. The parties in both these Writ Petitions and the issues involved in these cases are one and the same and therefore, these Writ Petitions are taken up together for a joint disposal by way of a common order.

3. For the sake of brevity, the Parties are referred to as 'the Workman' and 'the Management'.

4. The case of the Management is that the Workman joined as a Driver in the Management on 19.11.1997 and a charge memo came to be issued to him on 01.12.1999, on account of his unauthorised absence from duty. The Management, being not satisfied with the explanation offered by the Workman, had ordered for a domestic enquiry, and the Enquiry Officer, after a detailed enquiry, held the charges to be proved against the Workman and submitted a report dated 31.01.2000 to that effect. It is further case of the Management that accepting the findings of the Enquiry Officer in the report dated 31.01.2000, the Workman was dismissed from service on 04.06.2000.

4.1. It is also the case of the Management that the Workman, after a lapse of four years, raised an Industrial Dispute in I.D.No.566 of 2004 before the Labour Court, Salem against the order of dismissal dated 02.06.2000 and the Labour Court passed an award dated 06.10.2012 by directing the Management to reinstate the Workman with continuity of service with 40% back wages. Challenging the award dated 06.10.2012, the Management has filed the W.P.No.8697 of 2015. However, it is represented that during pendency of the said Writ Petition, the Workman was permitted to rejoin duty with effect from 04.06.2013 without prejudice to the Writ Petition filed by the Management.

4.2. It is also stated by the Management that while so, the Workman filed a Computation Petition in C.P.No.35 of 2014 under Section 33 (c) (2) of I.D.Act before the Labour Court, Salem to



compute the money value of salary due to the Workman from the Management at Rs.11,22,112/- along with interest. Despite counter being filed by the Management, without considering the same, the Computation Petition was allowed by the Labour Court on 13.03.2017, with a direction to the Management to pay a sum of Rs.5,27,661/- along with interest @ 6% per annum within three months, failing which directed to pay 9% interest. Aggrieved by the order, the Writ Petition in W.P.No.16987 of 2018 has been filed.

5. It is seen that in W.P.No.16987 of 2018, this Court had granted interim stay on condition that the Management shall deposit a sum of Rs.2,00,000/- before the Labour Court, Salem to the credit of C.P.No.35 of 2014 and on such deposit, the Workman was permitted to withdraw the same. It is represented by the Management that pursuant to the said interim order, the Management had deposited the said amount before the Labour Court.

6. When these matters are taken up for hearing, Mr.Sundaravadanam, learned counsel appearing for the Management submitted that the Workman has been reinstated and that his services will not be disturbed, based on the issue in question. He further submitted that as they have complied with the award insofar as reinstatement is concerned, back wages awarded by the Labour Court. Salam may be interfered with and reduced substantially, by taking note of the pandemic situation.

7. Mr.K.V.Shanmuganathan, learned counsel for the Workman submitted that since the Workman has already withdrawn the amount deposited by the Management, it may not be feasible for him to return the said money in case the percentage of back wages is reduced. He further submitted that the Workman has not questioned the reduction of back wages by the Labour Court and that depriving of 60% of the back wages itself is a severe punishment on flimsy charges. However, on instruction, he submitted that the Workman will not claim any amount, in addition to the amount already withdrawn and it is not possible for the Workman to refund any amount to the Management, on account of the very same Covid situation..

8. Heard both parties. Perused the records.

9. Upon consideration of the submissions made on either side, it is apparent that the parties want to give quietus to the matter and that the Workman does not want to demand any more amount, apart from the amount already received. The Workman has been reinstated into service by the Labour Court, by depriving a substantial portion of the back wages and therefore, this Court is not inclined to interfere with the award of reinstatement,



continuity of service and other consequential benefits. However, the back wages shall be restricted only to Rs.2,00,000/- and that the Workman cannot claim any arrears for the period in question. It is needless to mention here that if the Workman wants to claim any pensionary benefits and he is covered under the pensionary scheme, he shall remit employees contribution, so that he will get better pensionary benefits without any reduction. The excess amount, if any lying before the Labour Court shall be returned to the Management and the Workman need not return any amount withdrawn by him based on the orders of the Court.

10. With the above and direction, these Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To:

1. The Presiding Officer,  
Labour Court,  
Salem.
2. The Presiding Officer,  
Labour Court,  
Coimbatore.

+1cc to Mr.K.V.Shanmuganathan, Advocate, S.R.No.28362

W.P.Nos.16987 of 2018 and 8697 of 2015

AD(CO)  
PM/01/11/2021