



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.10545 of 2011

Rajendran ... Petitioner
Vs.

1.The Managing Director,
Arasu Rubber Corporation Limited,
Kanyakumari District,
Nagercoil.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

... Respondents

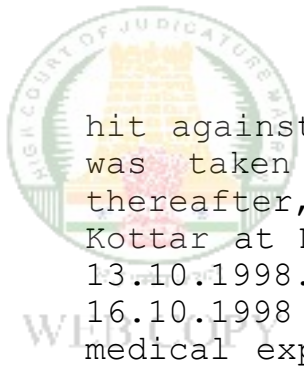
Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed in I.D.No.17 of 2008, dated 31.05.2011 on the file of Labour Court, Tirunelveli, the second respondent herein and quash the same and consequently direct the first respondent to reinstate the petitioner in service, by providing the alternative employment and to pay the service benefits and backwages from the date of termination to till the date of reinstatement.

For Petitioner : Mr.C.K.M.Appaji
For R1 : Mr.T.Ravichandran
R2 : Court

O R D E R

This writ petition has been filed challenging the impugned order passed by the Labour Court, Tirunelveli in I.D.No.17 of 2008, dated 31.05.2011 and to quash the same and consequently, direct the first respondent to reinstate the petitioner into service, by providing an alternative employment and to pay the service benefits and back wages from the date of termination to till the date of reinstatement.

2. The case of the petitioner is that he was appointed as Temporary Rubber Tapper in Tamil Nadu Arasu Rubber Corporation, Mylare Division on 01.01.1972 and his service was regularised in the year 1998. On 29.09.1998, while he was walking along with his wife at Thuckalay Main Road, a bus belonging to Kerala Transport Corporation driven by its driver in a rash and negligent manner and

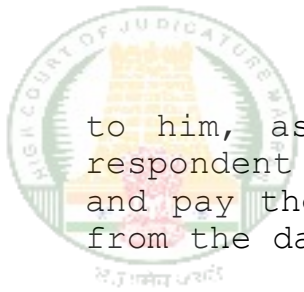


hit against them. The petitioner sustained grievous injuries and he was taken to Government Hospital, Thuckalay for treatment and thereafter, he was referred to Government Head Quarters Hospital, Kottar at Nagercoil and took intensive treatment from 29.10.1998 to 13.10.1998. Thereafter, he took treatment in a private hospital from 16.10.1998 to 13.12.1998 and incurred a sum of Rs.39,600/- for medical expenditure. Due to the said accident, he was unable to do the rubber tapping work. Therefore, the petitioner has made a representation to the first respondent on 12.07.1999, seeking alternative light work in the Corporation. However, the first respondent, by his Letter dated 22.07.1999, rejected the petitioner's request and advised the petitioner to get retirement from service, based on the medical report. Subsequently, the case was referred to Medical Board and on 04.10.2004, the Medical Board gave its opinion that the petitioner was suffering from post traumatic encophalomalacea and he was unfit to continue as Tapper. Thus, an enquiry was conducted and in pursuance of the report of the Medical Board, it was decided to remove the petitioner from service. Accordingly, the first respondent, by order dated 27.07.2005, removed the petitioner from service. Aggrieved by the same, the petitioner has made an application before the Assistant Commissioner of Labour, Nagercoil and the Assistant Commissioner of Labour, by Letter dated 31.12.2007, advised the petitioner to approach the Labour Court for necessary relief. Therefore, the petitioner has raised an Industrial Dispute in I.D.No.17 of 2008 before the second respondent to set aside the order of termination issued by the first respondent, dated 27.07.2009 and reinstate the petitioner into service with back wages, by providing alternative jobs. However, the Labour Court has dismissed the I.D.No.17 of 2008, on 31.05.2011. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner was unable to discharge his duty as Tapper, on account of the injuries sustained by him in the road accident and hence, he sought for alternative light work in the first respondent Corporation. However, without considering the past service rendered by the petitioner in the first respondent Corporation, the first respondent has removed the petitioner from service, which is bad in law. He would further submit that instead of dismissal from service, the petitioner has to be allowed to retire from service compulsorily and if the petitioner is retired compulsorily, he will get other monetary benefits.

4. The learned counsel appearing for the first respondent has no objection for allowing the petitioner to retire compulsorily.

5. In view of the above, the order passed by the Labour Court, Tirunelveli in I.D.No.17 of 2008, dated 31.05.2011, is modified from one of dismissal from service to one of compulsory retirement and the petitioner is entitled to receive the monetary benefits payable



to him, as a result of the modification of the order. The first respondent Management is directed to calculate the monetary benefits and pay the same to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.

6. With the above modification, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Managing Director,
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Kanyakumari District,
Nagercoil.

2.The Presiding Officer,
Labour Court,
Tirunelveli.

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mj (CO)

TR(16.04.2021) 3P 3C