



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.06.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W. P. (MD) No. 15395 of 2012

WEB COPY

K.Ramasamy

... Petitioner

-vs-

1.The Presiding Officer,
Labour Court,
Madurai.

2.The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Region - I,
Bye Pass Road,
Madurai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the First Respondent in C.P. No. 186 of 2009 dated 19.01.2012 and quash the same.

For Petitioner : Mr. S.Karthik
For R2 : Mr. J.Senthil Kumariah
Standing Counsel
For R1 : Labour Court

ORDER

(through Video Conference)

Heard Mr. S.Karthik, Learned Counsel appearing for the Petitioner and Mr. J.Senthil Kumariah, Learned Counsel appearing for the Second Respondent and perused the materials placed on record apart from the pleadings of the parties.

2. The Petitioner, who had been terminated from service by the Second Respondent by order dated 05.02.1998, had raised industrial dispute in I.D. No. 280 of 2001 before the Labour Court, Madurai, in which an award dated 28.05.2008 was passed directing his reinstatement without backwages. The Second Respondent had not challenged the said award, but the Petitioner had preferred the Writ Petition in W.P.(MD) No. 12825 of 2009 before this Court against the portion of that award insofar as it related to denial of backwages. In other words, the Second Respondent was under an obligation to forthwith reinstate the Petitioner into service after the passing of that award and pay him wages for the period

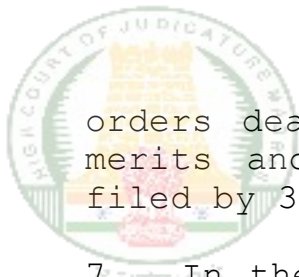


3. According to the Petitioner, the Second Respondent did not reinstate the Petitioner in service till December 2009. In that backdrop, the Petitioner had filed the claim petition in C.P. No. 67 of 2009 under Section 33-C(2) of the Industrial Disputes Act, 1947, claiming wages for the period from 01.08.2008 to 30.04.2009 which was granted by order dated 07.04.2010 and the Writ Petition in W.P. (MD) No. 460 of 2015 filed by the Second Respondent challenging the same was dismissed by order dated 14.11.2018. The Petitioner, in the meanwhile, had also filed another claim petition in C.P. No. 186 of 2009 before the Labour Court, Madurai, under Section 33-C(2) of the Industrial Disputes Act, 1947, claiming wages for the period from 01.05.2009 to 30.11.2009 which was dismissed by the Labour Court, Madurai, by order dated 19.01.2012 and has been assailed in this Writ Petition.

4. The only reason attributed in declining the relief to the Petitioner in the impugned order is that since the Petitioner had filed Writ Petition in W.P.(MD) No. 12825 of 2009 challenging the award dated 28.05.2008 in I.D. No. 280 of 2010 passed by the Labour Court, Madurai, it could not be said that the award has become enforceable and liberty was granted to the Petitioner to file a fresh petition after the disposal of that Writ Petition.

5. The impugned order cannot be sustained inasmuch as the dispute in W.P. (MD) No. 12825 of 2009 was confined to denial of backwages to the Petitioner for the period from the date of termination on 05.02.1998 till the time of passing of the award on 28.05.2008. As already stated, the Petitioner was entitled to reinstatement in service after passing of the award on 28.05.2008 and if the Second Respondent had not implemented the same, he was entitled to require his monetary benefits to be determined in proceedings under Section 33-C(2) of the Industrial Disputes Act, 1947, by the Labour Court, which has failed to exercise that jurisdiction vested in it by law. It is further brought to the notice that by order dated 27.02.2019 in W.P. (MD) No. 12825 of 2009, this Court has dismissed that Writ Petition.

6. In such circumstances, the impugned order dated 28.06.2012 in C.P. No. 186 of 2009 is set aside and the matter is remitted to the Labour Court, Madurai, to decide the matter afresh. The Petitioner and the Second Respondent shall appear before the Labour Court, Madurai, on 01.09.2021 and if the matter cannot be taken up on that day, the adjourned date of hearing shall be informed to the parties. It shall be ensured by the Labour Court, Madurai, that there is atleast one effective hearing every week showing progress of the case, that full opportunity of hearing is afforded to both sides following the prescribed procedure in consonance with the principles of natural justice, that reasoned



orders dealing with each of the contentions raised is passed on merits and in accordance with law and report of compliance is filed by 31.12.2021 before the Registrar (Judicial) of this Court.

7. In the result, the Writ Petition is ordered on the aforesaid terms. No costs.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

SRM/Ns

To

1. The Presiding Officer,
Labour Court, Madurai.

2. The Managing Director,
Tamil Nadu State Transport Corporation Ltd.,
Madurai Region - I,
Bye Pass Road, Madurai.

Copy to

1. K. Ramasamy,
S/o. Karuppasamy,
No. 256, Mariamman Kovil Street,
Srivilliputhur, Virudhunagar District.

2. The Registrar Judicial,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s. S. KARTHIK, Advocate (SR-19565[F] dated 18/06/2021)

+1 CC to M/s. J. SENTHILKUMARAI AH, Advocate (SR-19800[F] dated 22/06/2021)

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.

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