



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.09.2021

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THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.16640 of 2012

and

M.P. (MD)No.1 of 2012

WEB COPY

The Secretary,
State Express Transport Corporation
Employees Union No.2,
Pallavan Salai, Chennai. ... Petitioner
vs.

1.The State Express Transport Corporation (Chennai),
Sencottah Branch, represented by its Manager.

2.The Presiding Officer,
Labour Court, Tirunelveli. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the second respondent in I.D.No.59 of 2009, dated 03.09.2012 and quash the same and consequently, to direct the first respondent Management to regularise the service of Mr.Narayanan, with all other attendant benefits.

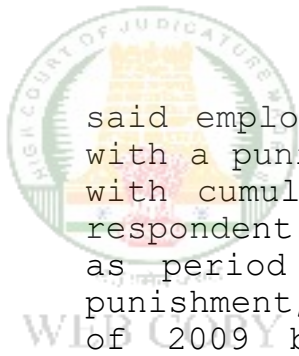
For Petitioner : Mr.D.Srinivasa Ragavan
For R1 : Mr.K.Sathiya Singh

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned award passed by the second respondent in I.D.No.59 of 2009, dated 03.09.2012 and consequently, to direct the first respondent Management to regularise the service of Mr.K.Narayanan, with all other attendant benefits.

2.Heard Mr.D.Srinivasa Ragavan, learned Counsel for the petitioner and Mr.K.Sathiya Singh, learned Counsel for the second respondent.

3.The petitioner is the Employees Union consisting the members working in the State Express Transport Corporation. It is stated that one of its member, by name, Mr.K.Narayanan, was working as a Conductor in the first respondent Corporation and the allegation against the said employee is that he had caused loss to the first respondent Corporation by not issuing tickets for some of the passengers, when he was on duty. A charge memo was issued to the



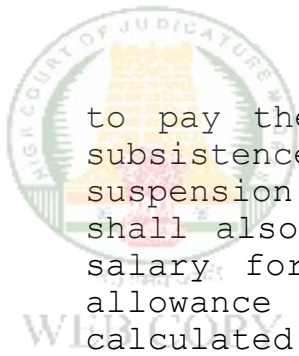
said employee. Ultimately, the disciplinary proceedings was ended with a punishment of stoppage of increment for a period of two years with cumulative effect. While imposing the punishment, the first respondent directed the period of temporary suspension to be treated as period of leave on loss of pay. Challenging the order of punishment, the petitioner raised an industrial dispute in I.D.No.59 of 2009 before the second respondent. The second respondent confirmed the order of punishment imposed by the first respondent. Aggrieved by the same, the above Writ Petition is filed.

4.The learned Counsel for the petitioner relied upon the Certified Standing Order of the first respondent Management. Referring to Clause-17 of the Certified Standing Order, the learned Counsel for the petitioner submitted that where the punishment is only a fine or stoppage of annual increment, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages, as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period. It is stated that the Certified Standing Order relied upon by the learned Counsel for the petitioner is in tune within the Model Standing Order applicable to the workmen. The English version of Clause-17 of the Certified Standing Order is extracted below:

"Provided also that where an order imposing fine or stoppage of annual increment or reduction in rank is passed under this clause, the workman shall be deemed to have been on duty during the period of suspension and shall be entitled to the same wages as he would have received if he had not been placed under suspension, after deducting the subsistence allowance paid to him for such period."

5.From the reading of Clause-17 of the Certified Standing Order applicable to the first respondent, it is seen that the employee is entitled to the same wages for the period of suspension and that he shall be deemed to have been considered on duty during the period of suspension. Hence, the learned Counsel for the petitioner is right that the second part of punishment to treat the period of suspension as period of leave on loss of pay is not valid, having regard to the specific clause in Certified Standing Order applicable to the first respondent.

6.Under such circumstances, this Court is inclined to partly allow this Writ Petition. Accordingly, this Writ Petition is partly allowed and the order of punishment imposed by the first respondent, as confirmed by the second respondent in I.D.No.59 of 2009, dated 03.09.2012, is set aside insofar as it relates to the period of suspension is concerned. Since the petitioner is entitled to full pay for the period of suspension, the first respondent is directed



to pay the salary for the period of suspension, after deducting subsistence allowance, if any paid to him. Since the period of suspension should be treated as period on duty, the first respondent shall also calculate all other monetary benefits accordingly. The salary for the period of suspension after deducting subsistence allowance paid to the employee, by name, Mr.K.Narayanan, shall be calculated within a period of four weeks from the date of receipt of a copy of this order. The same should be paid to the employee, by name, Mr.K.Narayanan, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.The Manager,
The State Express Transport Corporation (Chennai),
Sencottah Branch.

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-29429[F]
dated 17/09/2021)

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-29250[F]
dated 16/09/2021)

Order made in
W.P.(MD)No.16640 of 2012
16.09.2021

GC(27.09.2021) 3P 5C