



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) No.435 of 2013

V.Mariappan

...Petitioner

vs.

1.The Labour Court,
Tirunelveli.

2.S.Ganesan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the order of the first respondent passed in I.D.No. 21/2006 dated 29.11.2011 and to quash the same as far as the rejection of the back wages from 10.03.2005 till the date of joining is concerned and further to direct the second respondent to grant back wages to the petitioner from 10.03.2005 till the date of joining the duty.

For Petitioner : Mr.K.R.Laxman

For R-2 : Mr.C.Jawahar Ravindran

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of Labour Court in I.D.No.21 of 2006, dated 29.11.2011, insofar as the rejection of back wages for the petitioner from 10.03.2005, is concerned.

2.Heard Mr.K.R.Laxman, learned Counsel for the petitioner and Mr.C.Jawahar Ravindran, learned Counsel for the second respondent.

3.The petitioner was working in the second respondent Company as a Conductor. Earlier, the petitioner was not given employment and it was the case of the petitioner that the second respondent, without any reason, denied him employment when he reported for duty. Stating that the termination of service of the petitioner was oral and illegal, the petitioner gave a complaint under Section 2(a) of Industrial Disputes Act, 1947, before the Labour Officer, Tirunelveli on 05.08.2005. As a result of a conciliation, the second respondent instructed the petitioner to join duty.

4.After joining duty, it is stated by the petitioner that the second respondent initiated disciplinary proceedings by issuing fresh charges. Along with the charge memo, dated 17.11.2005, the second respondent issued show cause notice. The charges against the petitioner were held proved. Thereafter, the petitioner was removed from service. The termination of petitioner from service was challenged by the petitioner in I.D.No.21 of 2006 on the file of first respondent. Though the first respondent found that the



termination was illegal, refused to order back wages for reasons. Challenging the same the above Writ Petition is filed.

5.The learned Counsel appearing for the petitioner submitted that the petitioner was prevented by the second respondent to join duty and that the fresh proceedings to terminate the service of the petitioner was the out come of *mala fides* and that therefore, the petitioner was not only entitled to reinstatement, but also entitled to, for the back wages.

6.The learned Counsel for the petitioner did not highlight any irregularity in the impugned order. The misconduct/allegation against the petitioner were grave in nature and that therefore, the petitioner was dismissed from service. The Labour Court though found that the order of termination was foisted with *mala fides* and denied back wages, this Court is also of the view that the petitioner is not entitled to back wages.

7.From the facts narrated and admitted before this Court, the order of Labour Court was not that the petitioner did not commit any misconduct. As a matter of fact, the charge against the petitioner was that the petitioner was plying his own van and that the said van was also registered in his name. Though the petitioner stated that the van was subsequently sold by him, no proof has been produced before the Labour Court. In the circumstances pointed out by the Labour Court, the Labour Court is right in refusing to order back wages to the petitioner.

8.As a result, this Writ Petition is dismissed as devoid of any merits. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To
The Labour Court,
Tirunelveli.

+1 CC to M/s.K.R.LAXMAN, Advocate (SR-29475[F] dated 17/09/2021)

Order made in
W.P. (MD) No.435 of 2013
15.09.2021

GC(23.09.2021) 2P 3C