



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P(MD)No.10336 of 2021

WEB COPY

I.Senthil Kumar

... Petitioner

vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Limited,
Bye-Pass Road,
Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Madurai Limited,
Bye-Pass Road,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents herein to reinstate the petitioner with continuity of service with offer from the order passed by the Labour Court, Madurai, in I.D.No.71 of 2017, dated 23.09.2019, by considering the petitioner's representation, dated 16.06.2020.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.J.Senthil Kumariah

ORDER

The petitioner has filed the present Writ Petition, to direct the respondents to reinstate him with continuity of service, in the light of the order passed by the Labour Court, Madurai, in I.D.No.71 of 2017, dated 23.09.2019 and also by considering the petitioner's representation, dated 16.06.2020.

2.According to the petitioner, he was appointed as a Driver in the respondent Corporation on 17.07.2010. After the dismissal of the Writ Petition in W.P(MD)No.7876 of 2012, seeking regularization of the petitioner's service on completion of 480 days and the Writ Appeal in W.A(MD)No.1191 of 2012, the petitioner has filed an application before the Commissioner of Labour, Madurai, for permanency of his service as a Driver, as directed by the Division Bench of this Court and the same was taken on file in Na.Ka.No.A/372/13. The Commissioner of Labour, Madurai, by order, dated 28.06.2013, directed the respondents to make the service of the petitioner permanent and report compliance. Challenging the said order, the first respondent/Management filed a Writ Petition in W.P (MD)No.2305 of 2014. The said Writ Petition was dismissed for non-prosecution on 21.08.2014. The said order of dismissal is yet to be set aside.



3.While so, the respondents initiated disciplinary proceedings against the petitioner, by issuing charge-memo, dated 26.04.2014 and after holding domestic enquiry, dismissed the petitioner from service, by order, dated 24.08.2014. The approval petition filed by the respondents was rejected by the Special Deputy Commissioner of Labour Department, Madurai. The petitioner raised an Industrial Dispute in I.D.No.71 of 2017 before the Labour Court, Madurai. The Labour Court, Madurai, by award dated 23.09.2019, ordered reinstatement of the petitioner with continuity of service, but without backwages.

4.Further, according to the petitioner, the respondents have not challenged the said award and the said award has become final. In spite of various representations made by the petitioner, the respondents have not implement the award of the Labour Court, Madurai. On the other hand, the respondents orally informed the petitioner that if he is willing to be appointed as fresh entrant, he will be given appointment. In such circumstances, the petitioner has come with the present Writ Petition.

5.Mr.J.Senthil Kumariah, learned counsel takes notice for the respondents and submitted that a petition has been filed to restore W.P(MD)No.2305 of 2014, challenging the order of the Commissioner of Labour, Madurai, granting permanent status to the petitioner, is pending and the respondents are taking steps to file a Writ Petition, challenging the award of the Labour Court, Madurai and hence, the petitioner is not entitled for the relief sought for in the present Writ Petition and prayed for dismissal of the Writ Petition.

6.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents and perused the entire materials available on record.

7.From the materials available on record, it is seen that the petitioner filed an application before the Commissioner of Labour, Madurai, on completion of 480 days for permanency. The Commissioner of Labour, Madurai, by order, dated 28.06.2013, granted permanent status to the petitioner and directed the respondents to make the service of the petitioner as permanent and report compliance. Though the learned counsel appearing for the respondents submitted that the Writ Petition in W.P(MD)No.2305 of 2014 filed by the first respondent/Management, challenging the order of Commissioner of Labour, Madurai, granting permanent status to the petitioner was dismissed for non-prosecution on 21.08.2014 and a petition filed to restore the said Writ Petition is pending, the pendency of the said Writ Petition has no relevance for deciding the issue in the present Writ Petition. The Labour Court, Madurai, in I.D.No.71 of 2017, by award dated 23.09.2019, set aside the order of dismissal and ordered



reinstatement of the petitioner with continuity of service, but without backwages.

8.It is pertinent to note that earlier the approval petition filed by the respondents was dismissed by the Special Deputy Commissioner of Labour Department. The respondents have not challenged the said order of rejection of approval petition. Further, the respondents have not initiated any further proceedings challenging the award of the Labour Court, dated 23.09.2019 in I.D.No.71 of 2017, for the past two years. As per the award of the Labour Court, Madurai, the petitioner is entitled for reinstatement with continuity of service, but inspite of the award of the Labour Court, dated 23.09.2019, the respondents have not reinstated the petitioner with continuity of service. The respondents are bound to comply the award of the Labour Court, which has become final.

9.For the above reasons, the Writ Petition is allowed and the respondents are directed to reinstate the petitioner with continuity of service and pay all the monetary benefits to the petitioner from the date of the award of the Labour Court ie., on 23.09.2019. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

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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Madurai Limited,
Bye-Pass Road,
Madurai.

2.The General Manager,
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Madurai Limited,
Bye-Pass Road,
Madurai.



+1 CC to M/s.V.R.SHANMUGANATHAN, Advocate (SR-19721[F] dated 21/06/2021)

+1 CC to M/s.J.SENTHILKUMARAIAH, Advocate (SR-19803[F] dated 22/06/2021)

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