



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.10489 of 2021

and

W.M.P (MD)No.8159 of 2021

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The Management,
Tamil Nadu State Transport Corporation
Madurai Ltd.,
Madurai Region,
Rep. by its General Manager,
Bye Pass Road,
Madurai.

... Petitioner

Vs.

I.Senthil Kumar

... Respondent

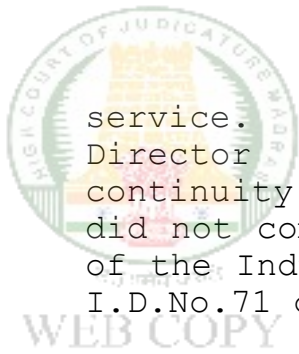
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the Labour Court, Madurai, in I.D.No.71 of 2017 dated 23.09.2019 as illegal and quash the same.

For Petitioner	: Mr.J.Senthil Kumaraiah
For Respondent	: Mr.V.R.Shanmuganathan

ORDER

The present writ petition has been filed by the petitioner to quash the impugned order passed by the Labour Court, Madurai, in I.D.No.71 of 2017, dated 23.09.2019, ordering reinstatement of the respondent with continuity of service without back wages.

2. According to the petitioner, the respondent while working as driver, on 19.05.2014, for the trip from Killukudi to Madurai, he informed the conductor that his 8 hours duty time was over and instructed the conductor to display the board only to Thirupuvanam. By this, the respondent failed to complete his duty time, which would be completed only at 11.25 p.m., but he halted the bus in the Branch office before completing his duty. By this misconduct, the respondent caused financial loss to the petitioner's Corporation. For this misconduct, the petitioner initiated disciplinary proceedings against the respondent. The respondent fully participated in the domestic enquiry and after considering all the materials, by order, dated 24.08.2015, dismissed the respondent from



service. After dismissal, the respondent approached the Managing Director of the Corporation, seeking reinstatement without continuity of service and without backwages. But the respondent did not come forward to enter into a settlement under Section 18(1) of the Industrial Disputes Act. He raised an Industrial Dispute in I.D.No.71 of 2017 after two years of dismissal.

3. The learned counsel appearing for the petitioner submitted that the Labour Court, Madurai, without giving any findings with regard to the issue viz., whether the dismissal of the respondent is liable to be set aside, ordered reinstatement with continuity of service, but without backwages. The Labour Court failed to take into consideration the earlier misconduct of the respondent. The respondent has caused financial loss to the petitioner's Corporation. The Labour Court failed to take into account that the respondent approached the Managing Director of the petitioner's Corporation for reinstatement without continuity of service and without backwages and prayed for setting aside the award of the Labour Court.

4. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

5. From the materials on record, it is seen that the petitioner issued a chargememo to the respondent for misconduct committed by him alleging that on 19.05.2014 he did not complete the trip and thereby, caused loss to the petitioner's corporation. After domestic enquiry and following the procedure, by order, dated 24.08.2015, the respondent was dismissed from service. The respondent earlier filed a writ petition in W.P(MD)No.10336 of 2021 for implementing the award of the Labour Court. In the said writ petition, the respondent herein has taken a stand that the approval petition filed by the petitioner was dismissed and the petitioner has not taken any steps challenging the said rejection. The said contention is not denied by the petitioner. Before the Labour Court, the respondent did not dispute the fairness of domestic enquiry conducted by the petitioner. In such circumstances, the Labour Court has considered the issue whether the order of dismissal for misconduct committed by the respondent is proportionate to the proven misconduct. Considering all the materials, the Labour Court has held that the imposition of capital punishment of dismissal ordered by the petitioner Corporation is not proportionate to the misconduct committed by the respondent.

6. In view of the said finding, the contention of the learned counsel for the petitioner that the Labour Court has not given any finding with regard to the issue framed whether dismissal of the petitioner is liable to be set aside, is not correct. The Labour Court, after considering all the materials on record and also nature of service rendered by the respondent, ordered reinstatement



with continuity of service without backwages and there is no error in the award of the Labour Court warranting interference.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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Note :

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W.P. (MD) No.10489 of 2021

29.06.2021

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