



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P. (MD)No.4545 of 2018

WEB COPY

V.Nagaraj

... Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Transport Corporation
(Madurai) Ltd.,
Bypass Road, Madurai-16.

2.The General Manager,
Tamilnadu State Transport Corporation
(Madurai) Ltd.,
Virudhunagar Region,
Virudhunagar.

... Respondents

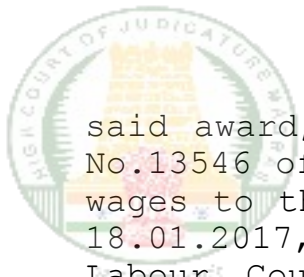
PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the respondents to reinstate the petitioner with continuity of service and to settle the arrears of wages from the date of award on 28.01.2010 till the order of reinstatement on 22.11.2017 as ordered by the Labour Court in I.D.No.130/1997, dated 28.01.2010 which was confirmed by the orders of this Court in W.P(MD)No.13546/2010, dated 18.01.2017 along with interest.

For Petitioner : Mr.S.Govindan
For Respondents : Mr.J.Senthil Kumaraiah
Standing Counsel

ORDER

This writ petition is filed to direct the respondents to reinstate the petitioner with continuity of service and to settle the arrears of wages from the date of award on 28.01.2010 till the order of reinstatement on 22.11.2017 as ordered by the Labour Court in I.D.No.130/1997, dated 28.01.2010, which was confirmed by the order of this Court in W.P(MD)No.13546/2010, dated 18.01.2017, along with interest.

2. According to the petitioner, he was appointed as driver in the respondents Corporation on 15.02.1989 and subsequently, he was promoted as Senior Grade Driver. In the year 2003, there was a fatal accident. The respondents issued a chargememo and dismissed him from service on 09.03.2004. The petitioner raised an Industrial Dispute in I.D.No.130 of 1997 before the Labour Court, Madurai. The Labour Court, Madurai, by the award, dated 28.01.2010, directed the first respondent to reinstate the petitioner within two months with continuity of service, but, without back wages. Challenging the



said award, the first respondent filed a writ petition in W.P.(MD) No.13546 of 2010. Pending writ petition, the respondents paid 17-B wages to the petitioner. Subsequently, this Court, by order, dated 18.01.2017, dismissed the writ petition confirming the award of the Labour Court. Even after dismissal of the writ petition, the respondents did not reinstate the petitioner into service. Therefore, the petitioner filed contempt petition in Cont.P.(MD) No.978 of 2017 and after 10 months, i.e., on 22.11.2017, the petitioner was reinstated into service. The respondents did not pay the back wages from the date of award till the date of reinstatement. Hence, the petitioner has sent representations, dated 25.04.2017 and 03.02.2018 and has come out with the present writ petition.

3. The respondents filed counter affidavit. Mr.J.Senthil Kumaraiah, learned Standing Counsel appearing for the respondents contended that after dismissal of the writ petition, the petitioner and the respondents have entered into a settlement under Section 18 (1) of the Industrial Disputes Act, 1947, dated 30.10.2017, wherein the petitioner waived his right of salary for non-employment period, including back wages and all other attendant benefits from the date of dismissal till the date of reinstatement. Hence, the writ petition is liable to be dismissed and prayed for dismissal of the writ petition.

4. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents and perused the materials available on record.

5. From the materials on record, it is seen that it is not in dispute that the Labour Court, Madurai, by award, dated 28.01.2010, in I.D.No.130 of 1997, ordered reinstatement of the petitioner with continuity of service, but without back wages. W.P(MD)No.13546 of 2010 filed by the first respondent challenging the award of the Labour Court, was dismissed by this Court on 18.01.2017. After dismissal of the writ petition, according to the petitioner, he was reinstated into service, after 10 months, i.e., on 22.11.2017 but the back wages as ordered by the Labour Court and confirmed by this Court, was not paid to him. It is the contention of the learned Standing counsel appearing for the respondents that after dismissal of the writ petition, a Settlement under Section 18(1) of the Industrial Disputes Act, 1947, was entered into between the petitioner and the respondents on 30.10.2017, wherein, the petitioner gave up his right of back wages and all other attendant benefits from the date of dismissal till the date of reinstatement. The learned Standing counsel appearing for the respondents produced a Xerox copy of the Settlement entered into the petitioner and the respondent Management under Section 18(1) of the Industrial Disputes Act, 1947, dated 30.10.2017. As per Clause (2) of the said Settlement, the petitioner has waived his right of salary for non-



employment period, including back wages and all other attendant benefits from the date of dismissal till the date of reinstatement. Having agreed to waive the wages, the petitioner has approached this Court for the very same relief. In view of the Settlement entered into between the petitioner and the respondents under Section 18(1) of the Industrial Disputes Act, 1947, dated 30.10.2017 which is binding on the petitioner, he is not entitled to the relief sought for in the present writ petition. The petitioner has not even mentioned the Settlement entered into between the petitioner and the respondents under Section 18(1) of the Industrial Disputes Act, 1947, dated 30.10.2017 in the affidavit and the typed set of papers filed by him.

6. In view of the above facts, the writ petition is liable to be dismissed and accordingly, it is dismissed. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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,
The Tamilnadu State Transport
Corporation (Madurai) Ltd.,
Bypass Road, Madurai-16.

2.The General Manager,
Tamilnadu State Transport
Corporation (Madurai) Ltd.,
Virudhunagar Region,
Virudhunagar.

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RD(20.07.2021) 3P 3C