



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.11513 of 2012

R.Ravisankar

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.The Management,
Tamil Nadu Transport Corporation,
(Villupuram) Limited,
Villupuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to I.D.No.154 of 2009 dated 07.09.2011 on the file of the first respondent herein and set aside the findings in respect of disentitling the petitioner continuity of service, back wages alone and consequently direct the second respondent to provide continuity of service, back wages and all other attended benefits to the petitioner.

For Petitioner : Mr.E.J.Ayyappan

For Respondents: R1 - Court
Mr.G.Saravana Kumar [R2]

ORDER

The petitioner herein, is aggrieved against the denial of back wages in the impugned Award passed in I.D.No.154 of 2009 dated 07.09.2011. A perusal of the Award reveals that the original order of termination was set aside on the ground that the punishment was disproportionate to the charges.



2. In the case of 'Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D. ED.) & others reported in '2013 (10) SCC 324, the Hon'ble Supreme Court had held that when the Labour Court holds the punishment to be disproportionate to the misconduct, then they will have a discretion not to award full back wages. Since the reinstatement ordered in the present impugned Award is also on the basis of the disproportionateness, the petitioner may not be entitled for claiming the backwages, in the light of the aforesaid decision of the Hon'ble Supreme Court.

3. As such, I do not find any infirmity in the Award passed by the Labour Court.

4. At this juncture, the learned counsel for the petitioner submitted that in view of the pendency of the writ petition, the retirement benefits due to the petitioner have not been disbursed since October, 2021.

5. In this connection, there shall be a direction to the second respondent herein, to forthwith disburse the Death-cum Retirement benefits due to the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

In the result, this Writ Petition stands dismissed. No costs.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1.The Presiding Officer,
Labour Court,
Cuddalore.



2.The Management,
Tamil Nadu Transport Corporation,
(Villupuram) Limited,
Villupuram.

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+1cc to Mr.E.J.Ayyappan, Advocate Sr.14967
+1cc to Mr.G.Saravanakumar, Advocate Sr.14935

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gpl[col]
srg 25/03/2022