



W.A.No.485 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

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S.Jayaraman

... Appellant

VS

1.The Management,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
No.12, Ramakrishna Road,
Salem-636 007.
represented by its Managing Director.

2.The Presiding Officer,
Labour Court,
Salem.

... Respondents

Prayer: Writ Appeal filed under clause 15 of the Letters Patent Act
against the order dated 28.08.2012 passed in W.P. No.1531 of 2011.

For Appellant : Mr.K.V.Shanmuganathan

For Respondents : Mr.R.Babu for
TNSTC, Salem for R1

R2 Court

JUDGMENT

[Judgment of this Court was delivered by T.RAJA, J.]

This writ appeal has been filed challenging the order dated
28.08.2012 passed in W.P. No.1531 of 2011, wherein the learned



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Single Judge, while coming to the conclusion that the Labour Court was not justified in awarding back wages to the petitioner therein, setting aside the Award passed by the Labour Court, Salem, allowed the writ petition in favour of the Management, Tamil Nadu State Transport Corporation (Salem Ltd.).

2.Learned counsel for the appellant submitted that the appellant was originally appointed as a Driver in the Tamil Nadu State Transport Corporation in the year 1984. But, due to his defective vision, he was discharged from service on 21.11.1990. Thereafter, he was re-instated in service as a Diesel Pump Operator on 07.02.1992. While so, a Charge Memo dated 13.08.1999 was issued to him on the allegation that he was absent from 27.07.1999 without prior intimation or permission from the competent authority. Learned counsel for the appellant further submitted that although the appellant asked for the copies of some documents to offer his explanation, the Management has not come forward to furnish the documents. But the appellant has submitted his explanation for the charge memo issued to him on 23.09.1999 and again a show cause notice dated 06.01.2000 was issued stating that he was absent without prior permission or notice from 14.08.1999. Thereafter, a domestic enquiry was conducted without



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giving any opportunity to the appellant. Learned counsel for the appellant further submitted that the explanation offered by the appellant to the charge memo issued to him and the deposition made by MW2 and scan reports submitted by the appellant before the Enquiry Officer would show that the appellant was not willfully absent from duty. Learned counsel for the appellant further submitted that when the appellant had requested the Management to provide him light duty through his various written as well as oral representations as he was not able to carry out heavy duties assigned to him in the maintenance department on account of his poor vision, the same has not been taken into account by the Management. Despite explanation offered by the appellant, he was dismissed from service vide letter dated 21.07.2000. Therefore, he raised an Industrial Dispute before the Labour Cour, Salem in I.D. No.669 of 2000, wherein the Labour Court passed an Award on 10.04.2003 directing re-instatement with continuity of service, but without back wages. Aggrieved by the same, the appellant filed W.P. No.35723 of 2005 before this Court only in respect of denial of back wages and this Court vide order dated 03.02.2009, has rightly set aside the denial of back wages, remanded the matter back to the Labour Court, Salem on the question of findings recorded in the domestic enquiry and directed the Labour Court to decide the claim



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for back wages. When the matter was again taken up for hearing before the Labour Court, the denial of back wages has been re-considered by the Labour Court, which opined that the findings of the Enquiry Officer were based on materials placed before him and directed the Management to pay 50% of the back wages to the appellant. When the same was challenged by the Management in the above W.P. No.1531 of 2011, the learned Single Judge of this Court, while observing that the Labour Court was not justified in awarding back wages to the petitioner therein, setting aside the Award passed by the Labour Court, has wrongly allowed the writ petition in favour of the Management, Tamil Nadu State Transport Corporation (Salem Ltd.). Aggrieved thereby, the present appeal has been filed by the appellant.

3.Learned counsel for the appellant further submitted that when the appellant has been suffering from defective vision, he was unable to do any heavy work. Although he was discharged from service, he was re-instated in service, but, instead of giving light work, he was given heavy work. Therefore, he requested the Management to provide only a light work. When the same was denied, he was not able to discharge the heavy work as his vision was not co-operative. But the learned Single Judge, disagreeing with



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the justification offered by the appellant, has wrongly set aside the Award passed by the Labour Court, in which the appellant was given 50% of back wages.

4. But, we are unable to find any justification in the submissions made by the learned counsel for the appellant. When the appellant was discharged from service on 21.11.1990 on the ground of his shortage in vision, subsequently, he was re-instated in service as a Diesel Pump Operator on 07.02.1992. But, again he was absent from 27.07.1999 without getting prior permission from the competent authority. Therefore, the Management initiated disciplinary proceedings and dismissed him from service. Thereafter, when the appellant raised Industrial Dispute before the Labour Court, Salem in I.D. No.669 of 2000, he demanded the continuity of service, re-instatement and also the back wages. However, the Labour Court passed an Award on 10.04.2003, directing the Management to re-instate the appellant with continuity of service, but, without back wages. Aggrieved thereby, when the appellant filed a writ petition in W.P. No.35723 of 2005 before this Court, the learned Single Judge, finding some errors, remanded the matter back to the Labour Court for effective adjudication on the question of findings recorded in the domestic enquiry. After remand, the Labour Court has directed the Management to provide 50% of back wages to the appellant.



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Aggrieved by the same, the Management has filed the above W.P.

No.1531 of 2011 before this Court.

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