



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 06.09.2021
PRONOUNCED ON : 19.01.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.18192 of 2004

Mahendran

...Petitioner

Vs.

1.Tamil Nadu State Transport Corporation
rep. by its Managing Director,
Head Office,
Vellore.

2.The Presiding Officer,
Labour Court,
Vellore.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Award dated 22.07.2003 in I.D.No.229 of 2001 passed by the second respondent, quash the same and consequently, direct the first respondent to reinstate the petitioner with continuity of service, back wages and other attendant benefits, award costs.

For Petitioner : Mr.V.Ajoy Khose
For Respondent-1 : Mr.C.S.K.Sathish

O R D E R

Heard the learned counsels on either side.

2. Pursuant to a set of charges under a charge memo dated 28.11.1997, an enquiry was conducted, pursuant to which the petitioner herein was dismissed from the services on 28.08.2000. The dispute raised by the petitioner was rejected by the Labour Court, Vellore through the impugned award dated 22.07.2003, which is put under challenge in the present Writ Petition.

3. Though the petitioner herein had raised several grounds challenging the award, the learned counsel for the petitioner would submit that the enquiry conducted by the Management, was not in a fair and proper manner and that the Principles of Natural Justice were violated.



4. It is seen that after the charge memo was issued to the petitioner dated 28.11.1997, the petitioner gave a request on 10.12.1997 seeking for four documents, namely, the special complaint, cash bank checking report, traffic report, passengers complaint and other relevant documents. During the course of enquiry, his request for documents was once again reiterated by him on 10.08.1999. However, without furnishing the documents, the enquiry was proceeded with and the charges were held to be proved through a report dated 25.04.2000. At this stage, a second show cause notice was issued to the petitioner on 06.05.2000. In his explanations dated 30.05.2000, the petitioner had once again sought for copies of the documents which he had earlier requested. However, without furnishing such documents, or making any reference to the request made by the petitioner in his explanation to the second show cause notice, he was dismissed from services on 28.08.2000, by stating that his explanations are unacceptable.

4. In the claim statement filed by the petitioner in I.D.No.229 of 2001, he had raised a specific ground that the enquiry was not done in a fair and proper manner, since the documents requested by him on 10.12.1997 were not furnished. However, the Labour Court without taking note of this ground, had passed the impugned award dated 22.07.2003.

5. On a perusal of the various requisitions made by the petitioner for supply of the documents through his letters dated 10.12.1997, 10.08.1999, 30.05.2000, as well as the grounds in the claim petition in I.D.No.229 of 2001, this Court is of the view that the petitioner herein had been consistently requesting for some documents for the purpose of establishing his case in the enquiry, which were not been furnished to him during the course of enquiry and this aspect was not properly appreciated by the Labour Court, while passing the impugned award. In this background, this Court is of the view that the enquiry itself was not held in a fair and proper manner and therefore, the consequential punishment of dismissal from service, as well as the impugned award, cannot be sustained.

6. In normal circumstances, this Court would have remitted back the matter by granting liberty to the respondents to conduct a fresh enquiry. However, it is seen that the petitioner had now reached the age of superannuation and therefore, no useful purpose would be served by remitting back the matter for a fresh enquiry. In this background, if the back wages payable to the petitioner for the period of non employment is withheld, the ends of justice could be secured.



7. In the light of the above observations, the impugned award passed by the Labour Court, Vellore in I.D.No.229 of 2001 dated 22.07.2003, as well as the dismissal order dated 28.08.2000, is quashed. Consequently, the petitioner herein is deemed to have continued in service from 28.08.2000 onwards till his date of superannuation and hence the Management shall extend continuity of service together with other attendant benefits for such period. However, the petitioner shall not be entitled for any back wages for the period of his non-employment. The Management shall pay the employer's contribution of the Provident Fund for the period of his non-employment. The respondent herein shall endeavor to pass appropriate orders, retiring the petitioner from the services and consequently disburse the retirement benefits, including the pensionary benefits, within a period of four weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed accordingly. There shall be no orders as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

DP

To

1.The Managing Director,
Tamil Nadu State Transport Corporation
Head Office,
Vellore.

2.The Presiding Officer,
Labour Court,
Vellore.

+1 CC to Mr.C.S.K.Sathish, Advocate sr 3802.

W.P.No.18192 of 2004

SS(CO)
SP(04/02/2022)