



W.P.No.1750 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 15.09.2022

DELIVERED ON : 31.10.2022

CORAM:

THE HON'BLE MR.JUSTICE K. KUMARESH BABU

W.P.No.1750 of 2013

and

W.P.No.23029 of 2012

W.P.No.1750 of 2013

D.Egambaram

... Petitioner

Vs

1.The Presiding Officer,
Labour Court, Cuddalore,
Cuddalore.

2.The Management,
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram – 605 602

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, after calling for the records pertaining to the award dated 07.12.2011 in I.D.No.27 of 2002 passed by the 1st respondent, quash the same and consequently direct the 2nd respondent to pay the petitioner backwages and all other attendant benefits and also to give the petitioner continuity of service for all purposes namely for annual increments, revision of pay, review, etc., in addition to the relief of reinstatement with continuity of service for the

Page:1/10



WEB COPY



W.P.No.1750 of 2013

purpose of gratuity already granted by the 1st respondent.

For Petitioner : Mr.V.Ajoy Khose

For Respondents : R1 – Labour Court

: Mrs.S.Pavithra for R2
Standing Counsel for Transport

W.P.No.23029 of 2012:

The Management,
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram – 605 602

... Petitioner

Vs

1.D.Egambaram

2.The Presiding Officer,
Labour Court, Cuddalore,
Cuddalore.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari to call for records of the 2nd respondent made in I.D.No.27 of 2002 dated 07.12.2011 and to quash the order to the extent of granting reinstatement of service with continuity of service for the purpose of calculation of the gratuity at the time retirement.

For Petitioner : Mrs.S.Pavithra
Standing Counsel for Transport

For Respondents : Mr.V.Ajoy Khose



WEB COPY

W.P.No.1750 of 2013



: R2 – Labour Court

COMMON ORDER

The above Writ Petitions have been filed by the workmen and also the Management being aggrieved against the Award made in I.D.No.27 of 2002 dated 07.12.2011 made by the Labour Court, Cuddalore.

2.The brief facts of the case is that the workmen herein had being working as a conductor on temporary basis and that when he was in duty, on 10.12.2000, the vehicle was checked. During the check, it was found that the workmen had not issued tickets for 15 passengers who had travelled from Tiruvannamalai to Chennai. After collection of the fare, the workmen had also not issued luggage ticket for the luggage which was there in the bus. The workmen's cash bag was also checked and was found that there was an excess of Rs.1.25 and hence, the workmen was placed under suspension on 11.12.2000 and a charge memo was issued on 14.12.2000. Pursuant to the charge memo an enquiry was conducted. An enquiry report was made holding that the charges against the



WEB COPY



W.P.No.1750 of 2013

workmen was proved and discharged from services on 07.05.2001, against which the workmen has preferred I.D.No.27 of 2002, in which an Award was passed on 07.12.2011. The Tribunal has held that the enquiry conducted against the workmen was not fair and in proper manner. Therefore, it had independently gone into the charges made against the workmen and based on the various documents filed before it and the evidences of the workmen and the Management, had held that the charges were not proved and therefore, the order of dismissal was set aside. But, however, considering the fact that the workmen was dismissed on 07.05.2001 and the dispute had been raised only in the year 2002, the Labour Court had reinstated the workmen with continuity of service only for the purpose of calculation of gratuity at the time of retirement and not for calculation of salary and also held that the workmen would not be entitled for backwages and other attendant benefits.

3.Heard Mr.V.Ajoy Khose, learned counsel appearing for the workmen and Mrs.S.Pavithra, learned Standing Counsel appearing for the Management.



WEB COPY

4.Mr.V.Ajoy Khose, learned counsel appearing for the workmen would contend that when the Labour Court, having found that the charges leveled against the workmen were not proved and further having held that the order of dismissal was unjustified as wholly erred in depriving the workmen of the entire backwages and other attendant benefits. The reliance to various judgments placed by the Labour Court in denying backwages and other attendant benefits will not be applicable to the facts of the present case.

5.In the present case, he contended that the Labour Court has rightly found that the charges as framed against the workmen has not been proved. The further finding by the Labour Court that the enquiry was not fair and proper would only indicate that the Management has been hell-bent for the reasons best known to it, to discharge the workmen from services. When such a finding has been given, the Labour Court ought not to have denied the workmen the backwages and other attendant benefits. Hence, he sought to set aside the Award passed by the Labour Court in respect of denial of backwages and attendant benefits and directed the Management to pay the backwages and other attendant



benefits.

WEB COPY

6.Countering the arguments Mrs.Pavithra, learned counsel appearing on behalf of the Management would submit that the Tribunal has wholly erred in holding that the enquiry was not conducted in a fair and proper manner. According to her, the Labour Court has failed to see various materials produced before it to substantiate the various proceedings as per the established procedure were followed, before the order of dismissal was passed. The Labour Court has also failed to see that the workmen was also involved in similar delinquencies earlier which prompted the Management to pass the order of dismissal. She further pleaded that the workmen did not produce any documental evidences nor has produced relevant witness to disprove the charges framed by the Management. On the contrary, the Management had marked various documentary evidences from Ex.M1 to Ex.M12 and had also examined three witnesses on its side to prove the charges. According to her, the Labour Court had not considered any of the materials placed before it and on surmises and conjectures, had set aside the order of dismissal without any cogent reasonings. Hence, she submitted that the



order of the Labour Court is wholly perverse and is therefore liable to be set aside.

WEB COPY

7.I have considered the rival submissions made by the learned counsels appearing on either side and perused the materials available on record before this Court.

8.A bare perusal of the impugned Award would show that the Labour Court has in extenso and dealt that each of the charges were not proved. Had also held that the relevant witnesses were not examined on the part of the Management to sustain the charges framed against the workmen. That apart, the Labour Court has given a categorical finding that the enquiry has not been conducted in a fair and proper manner for which the Management had not raised any serious objections in their Writ affidavit. When that being so, this Court under Article 226 of the Constitution of India cannot re-appreciate the evidence based on which the Labour Court has arrived on its conclusion based upon the finding of fact. Further I also find any perversity in the conclusion arrived on by the



WEB COPY

Labour Court in holding that the charges were not proved. The next question is the right of the workmen for being entitled for backwages and other attendant benefits. I come to the conclusion that the workmen will not be entitled for any backwages or other attendant benefits. The Labour Court had taken pains in relying upon various judgments passed by the various High Courts. It is also a case, as even though a order of dismissal dated 07.05.2001, the workmen had approached the Labour Court by raising an industrial dispute only in February, 2002. The reason assigned by the workmen that the conciliation proceedings was over only in the year December, 2001, would not support the case of the workmen for the delay in approaching the Labour Court. The Labour Court apart from the delay has relied upon various judgments in in respect of the entitlement of the workmen in being granted backwages and other attendant benefits.

9.I am of the considered opinion that when an order of reinstatement is passed, the workmen would not be automatically entitled for backwages and other attendant benefits. Further, considering the nature of the employment of the workmen was temporary, I also find no reasons to interfere with the conclusion arrived at by the Labour Court



W.P.No.1750 of 2013

that the workmen would not be entitled to backwages and other attendant benefits.

WEB COPY

10.In the result, both the Writ Petitions are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also closed.

31.10.2022

*Index: Yes/no
Speaking/non-speaking
gba*

K. KUMARESH BABU, J.

gba

To

1.The Management,
Tamil Nadu State Transport
Corporation Ltd.,
Villupuram – 605 602

2.The Presiding Officer,
Labour Court, Cuddalore,
Cuddalore.

Page:9/10



WEB COPY



W.P.No.1750 of 2013

A Pre-delivery order in
W.P.No.1750 of 2013
and
W.P.No.23029 of 2012

31.10.2022