



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.23485 of 2015

and

M.P.Nos.2 to 4 of 2015

The Management,
Rep. by its General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Villupuram - 605 602.

...Petitioner

-Vs-

1. The Presiding Officer,
Labour Court, Cuddalore.

2. V.Kannadasan

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the 1st respondent made in I.D.No.35 of 2013 dated 11.06.2014 and quash the same.

For Petitioner : Mr.G.Saravana Kumar

For R1 : Court

for R2 : Mr.R.Muralidharan

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2.The second respondent was dismissed from services on the charge of unauthorized absence. When he had challenged the dismissal order before the Labour Court in I.D.No.35 of 2013, the Labour Court, Cuddalore had set aside the order of dismissal and directed the petitioner-Management to reinstate him back into service, together with 50% back wages and continuity of service. The award of the Labour Court is put under challenge in the present writ petition.

3.Though the petitioner-Corporation had challenged the award, it is stated that on 20.12.2019, the petitioner had issued orders reinstating the second respondent into service as Conductor, in order to avoid payment of the last drawn wages under Section 17B of the Industrial Disputes Act. The second



respondent has also joined duty on 18.12.2019 and it is stated that he is still continuing in service.

4. Insofar as the award for payment of back wages, together with continuity of service is concerned, the petitioner has not raised any grounds in the writ petition with regard to the second respondent's entitlement for 50% of back wages or for continuity of service. The attack seems to be only on the award for reinstatement.

5. The Labour Court, in the impugned award, had found that the punishment of dismissal was grossly disproportionate to the gravity of charges and by relying upon the decision of the Hon'ble Supreme Court in the case of Rama Kant Misra Vs. State of Uttar Pradesh reported in 1982 (3) SCC 346, as well as in the case of P.V.K Distillery Ltd., Vs. Mahendra Ram reported in 2009 (5) SCC 705, had set aside the order of dismissal. Furthermore, the Labour Court had also taken into account that the Corporation had not produced any witness to show that the second respondent was absent from duty without any permission on previous occasions and that they had not produced any evidences to show that he was imposed with punishments for previous delinquencies. It is in this background, the Labour Court had restricted the back wages to 50% and ordered for continuity of service.

6. I do not find any infirmity in such a finding. When the petitioner-Corporation had failed to establish their case before the Labour Court and substantiate that the punishment was proportionate to the charges and having failed to further establish the previous punishments against the second respondent herein, the award of 50% of back wages and continuity of service cannot be found fault with.

7. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

8. In view of the dismissal of the present writ petition, the petitioner-Corporation shall pass appropriate orders to disburse 50% of the back wages, as awarded by the Labour Court and also extend the continuity of service from the date of dismissal, within a period of 8 weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

hvk



To

1. The Presiding Officer,
Labour Court,
Cuddalore.

WEB COPY

2. The General Manager,
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Villupuram - 605 602.

+1cc to Mr.G.Saravanakumar, Advocate, S.R.No.29432

+1cc to Mr.R.Muralidharan, Advocate, S.R.No.29195

W.P.No.23485 of 2015
and
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AK-II (CO)
RGA (20/05/2022)