



W.P.No.21513 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.21513 of 2014

and

M.P.No.1 of 2014

The Management,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Division,
Bharathipuram,
Dharmapuri - 05
Rep. by its Managing Director.

...Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Salem.

2.S.Palanisamy

...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 order passed by the 1st respondent, Labour Court, in I.D.No.149 of 2007, dated 11.02.2013 and to quash the same as illegal.



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For Petitioner : Mr.R.Babu

For R1 : Labour Court

For R2 : Mr.K.V.Shanmuganathan

ORDER

Heard Mr.R.Babu, learned counsel appearing for the petitioner and Mr.K.V.Shanmuganathan, learned counsel for the second respondent.

2. Alleging that the second respondent herein had submitted bogus educational certificates at the time of his employment, a show cause notice dated 23.04.1996 was issued. By stating that since the second respondent had failed to give his reply after receiving the notice, he was dismissed from service on 24.06.1996. Challenging the order of dismissal, he had raised a dispute in I.D.No.149 of 2007 before the Labour Court, Salem and by an Award dated 11.02.2013, the Labour Court had found that the management had failed to establish that the educational certificates given by the second respondent were bogus and on that ground, had ordered for reinstatement with continuity of service, but had restricted the back wages to 20%. While the management has challenged this Award in the present Writ Petition, the workman has not challenged the denial of 80% of the back wages.

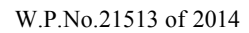


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3. Admittedly, no departmental enquiry was conducted prior to the order of dismissal. The Labour Court, however, had rendered a finding by stating that since the petitioner herein was not a permanent workman, no such departmental enquiry is required. Such a finding is opposed to the very basis of the procedure contemplated for termination of a workman under the Labour Law jurisprudence. Even assuming that the second respondent was not a permanent worker, there is a duty cast on the Corporation to conduct an enquiry pursuant to the show cause notice and thereafter initiate further steps. On this aspect, the finding of the Labour Court that no such departmental action is required, cannot be sustained.

4. However, the Labour Court had ventured into the oral and documentary evidences let in by the management and had come to the conclusion that the management had failed to establish that the educational testimonials supplied by the petitioner were bogus. On this aspect, the Labour Court had awarded for reinstatement with continuity of service, together with 20% of back wages. For such a purpose, the Labour Court had placed reliance on Ex.M.10, as well as Ex.M.11. Further reliance has been placed on



6. In view of the dismissal of the Writ Petition, the management shall forthwith disburse the 20% of back wages awarded under the impugned Award passed in I.D.No.149 of 2007, dated 11.02.2013, within a period of 6 weeks from the date of receipt of a copy of this order.

Index: Yes/No
Internet: Yes/No
Speaking order/Non-speaking order
hyk



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To
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- 1.The Presiding Officer,
Labour Court,
Salem.
- 2.The Managing Director,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Division,
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M.S.RAMESH,J.

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