



WEB COPY

W.P.(MD)No.7961 of 2011

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.7961 of 2011

The Managing Director,
Tamilnadu State Transport Corporation,
Madurai Division Limited,
Bye-Pass Road, Madurai-10.

... Petitioner

vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.A.Karuppiah

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records on the files of the 1st respondent pertaining to its proceedings in I.D.No.186 of 2003, dated 07.10.2010 and to quash the same.

For Petitioner	: Mr.S.C.Herold Singh
For R1	: Labour Court
For R2	: Mr. A.Karuppiah
	Party-in-person



W.P.(MD)No.7961 of 2011

WEB COPY

ORDER

This writ petition is filed for issuance of writ of Certiorari, to call for the records on the files of the 1st respondent pertaining to its proceedings in I.D.No. 186 of 2003, dated 07.10.2010 and to quash the same.

2. The second respondent joined as a conductor in the petitioner corporation. While he was discharging his duty on 28.03.2002, the Checking Inspector found that the petitioner issued tickets for lesser fare, after collecting proper fare from 24 passengers, but has not issued tickets, thereby committed misappropriation of Rs.195.50/-. The second respondent has collected the actual fare and has not accounted the excess to the corporation. Since it is a case of misappropriation, petitioner corporation initiated disciplinary proceedings.

3. The contention of the petitioner is that the second respondent has already suffered punishment for a similar misconduct on 15.01.1993. Therefore, considering the serious act of the second respondent, the second respondent was



W.P.(MD)No.7961 of 2011

WEB COPY

dismissed from service on 19.02.2003. Challenging the dismissal order, the second respondent raised an industrial dispute before the first respondent. The first respondent has considered the entire issue and has rendered the impugned order, wherein, it was directed the petitioner management to reinstate the second respondent into service and grand continuity of service without back wages. Aggrieved over the same, the petitioner corporation has preferred this writ petition.

4. The contention of the petitioner corporation is that the Labour Court has rendered a finding that the second respondent has committed misappropriation by not issuing ticket and has also observed that misplaced sympathy cannot be shown to an employee who has committed misappropriation. Further, the Labour Court has held that the employee had realized the mistake and he should not repeat the same mistake forever and has also held that if the employee continues the same misconduct in future, the court would not extend the helping hands towards the employee. The contention of the petitioner corporation is that, having



W.P.(MD)No.7961 of 2011

WEB COPY

held so, the Labour Court should not have awarded reinstatement with continuity of service without back wages. The petitioner prayed to allow this writ petition and confirm the dismissal order.

5. The Learned Counsel for the second respondent did not appear before this Court. However, the second respondent is present before this Court as party-in-person.

6. The party-in-person had submitted that he has attained superannuation on 30.06.2021. Further, he submitted that he joined the service on 20.11.1991 and has rendered service until 2003 and thereafter was dismissed from service in the year 2003. Aggrieved over, the dismissal order was challenged before the Labour Court. The second respondent had prayed before this Court that he was without service for all these years and is not gainfully employed elsewhere, he and his family is suffering for the basic needs itself. The second respondent has also filed an affidavit to the effect he has not gainfully employed elsewhere. Moreover, he had attained superannuation and hence prayed before this Court to pass



W.P.(MD)No.7961 of 2011

WEB COPY

appropriate orders.

7. It is seen that the second respondent has committed the said act twice and now he has attained superannuation. He was employed in the petitioner's corporation service from 20.11.1991 to 19.02.2003 and was out of employment from 19.02.2003 to 30.06.2021. The Labour Court has not granted any back wages, but has granted continuity of service. Taking the nature of the case and taking the fact that the second respondent has attained superannuation into consideration, this Court is of the considered opinion that the period from 2003 to 2022 shall be taken for calculating pensionary benefits alone. Therefore, this Court is directing the petitioner corporation to take 50% of the period from 19.02.2003 to 30.06.2021 (the date of superannuation).

8. The learned Counsel appearing for the petitioner vehemently objected to such relief being granted to the second respondent since it is the case of misappropriation. However, this Court is of the considered opinion that since the second respondent has put in service more than 12 years and the second



W.P.(MD)No.7961 of 2011

WEB COPY

respondent has attained superannuation, this Court is rejecting the objection.

Hence this Court is passing the following order:

- a. The petitioner management shall calculate from 20.11.1991 to 2003 and pay the pensionary benefits.
- b. For the period from 19.02.2003 to the date of superannuation, i.e., 30.06.2021, 50% of the services shall be added with the regular service and pensionary benefits shall be paid to the petitioner.
- c. It is made clear the second respondent is not entitled to any backwages at all.

9. With the above said observation, the writ petition is disposed of. No costs.

Index : Yes / No
Internet : Yes

30.11.2022

Tmg



WEB COPY



W.P.(MD)No.7961 of 2011

To

The Presiding Officer,
Labour Court,
Madurai.



WEB COPY



W.P.(MD)No.7961 of 2011

S.SRIMATHY, J

Tmg

W.P.(MD)No.7961 of 2011

30.11.2022