



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.5184 of 2013

The Management,
Tamil Nadu State Transport Corporation
(Madurai Division) Ltd,
Bye Pass Road,
Madurai.

...Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
District Court Building,
Madurai.

2.J.George Kennedy

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the first respondent pertaining to the proceedings in I.D.No.130 of 2011, dated 16.04.2012 and quash the same.

For Petitioner : Mr.J.Senthil Kumaraiah

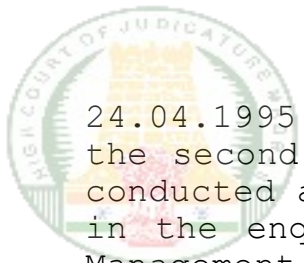
For R-1 : Labour Court

For R-2 : Mrs.N.Juliet Latha

ORDER

This Writ Petition is filed challenging the ID.No.130/2011 dated 16.04.2012.

2. The brief facts of the case are that the second respondent was working as Driver with effect from 01.09.1989. On 27.02.1995 at about 2.00 p.m. he misbehaved with the Superior Officers. The petitioner's Management placed the second respondent under suspension pending enquiry with effect from 28.02.1995 to



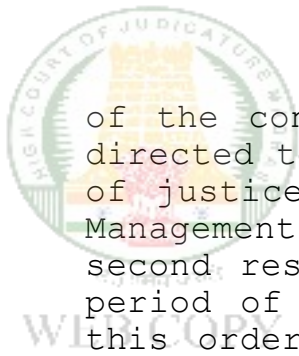
24.04.1995. A charge memo was issued to the second respondent and the second respondent has not submitted any reply. The Management conducted a Domestic Enquiry and the second respondent participated in the enquiry and cross examined the Management witnesses. The Management marked 12 documents in the enquiry. Finally, the enquiry officer submitted his report stating that all the charges were held proved. The second show cause notice was issued and the second respondent has submitted his explanation. Thereafter, the petitioner's Management dismissed the second respondent from service with effect from 22.11.1995. The second respondent filed a I.D. No. 130 / 2011 before the Labour Court. The Labour Court passed the impugned order dated 16.04.2012 directing the petitioner to reinstate the second respondent with continuity of service but denied backwages. Aggrieved over the same, the petitioner's Management has filed this Writ Petition.

3. The second respondent has filed M.P.(MD).No.2 of 2013 prayed for payment of 17B wages and this Court has allowed the Petition on 03.12.2013. The respondents are paying 17B wages from March 2014 onwards. The allegations against the petitioner are that he has misbehaved with his superior officers in drunken mode. The respondents have circulated the written communication stating that the second respondent has faced 13 delinquencies in the petitioner's Management. In 3 occasions, the second respondent has not come for duty. In 3 occasions, the second respondent has misbehaved and used filthy language. In 2 occasions, the second respondent has committed accident and there was no serious punishment against the second respondent. It is only warning, suspension from service and in one occasion, there was stoppage of increment for three months.

4. Taking these factors into consideration, this Court is of the considered opinion that the allegations against the second respondent was that he has misbehaved in the drunken mode but the Management petitioner has not conducted any blood test for the second respondent to prove the drunkenness.

5. The contention of the petitioner's Management is that the ID order was passed in the year 2012 but the second respondent has raised ID after the lapse of fifteen (15) years. Therefore, the reinstatement without taking into consideration, the delay is illegal. This Court has granted interim stay when Writ Petition was admitted. The second respondent has filed Vacate Stay Petition also.

6. It is seen from the records that the petitioner's Management has filed this Writ Petition after lapse of one year. Now the respondent has attained superannuation also. Now there is no question of reinstatement. The petitioner is receiving last drawn salary from the year 2014 onwards till now under 17B wages petition. Since the petitioner has raised the ID with enormous delay and taking into other facts into consideration, this Court is



of the considered opinion that if the petitioner's Management is directed to pay some monetary benefits and that would meet the ends of justice. Therefore, this Court is directing the petitioner's Management to pay wages from April 2012 to February 2014 to the second respondent. The monetary benefits shall be paid within a period of eight (8) weeks from the date of receipt of a copy of this order without any delay. If the petitioner's Management is not paying within twelve weeks, the amount shall carry interest at the rate of 6% per annum.

7. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,
Labour Court,
District Court Building,
Madurai.

+1 CC to M/s.N.JULIET LATHA, Advocate (SR-13383[F] dated 22/03/2022)

W.P. (MD) .No.5184 of 2013
22.03.2022

NSN (CO)
KP(04.04.2022) 3P 3C