



W.P.(MD)No.17898 of 2014

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17898 of 2014

and

M.P.(MD)No.1 of 2015

The Management,
State Express Transport Corporation,
Tamil Nadu Division-1 Limited,
Tiruvandrum Road,
Vannarapettai, Tirunelveli-3

... Petitioner

vs.

1. The Presiding Officer,
Labour Court,
Tirunelveli.

2. S.Brahmma Nayagam,
C/o.Nellai District Transport Employees Union (CITU). ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorari*, to call for the records of the order dated 20.10.2014 passed by the first respondent in C.P.No.181 of 2001 on the file of the Labour Court, Tirunelveli and quash the same.



W.P.(MD)No.17898 of 2014

WEB COPY

For Petitioner : Mr.K.Sudalaiyandi

R-1 : Court

For R-2 : Mr.A.Rahul

ORDER

This Writ Petition is filed for issuance of a *Writ of Certiorari*, to quash the order, dated 20.10.2014 in C.P.No.181 of 2001 passed by the learned Presiding Officer, Labour Court, Tirunelveli.

2. The brief facts of the case are that the second respondent was working as Temporary Assistant Cook in the petitioner's Management. Subsequently, he was terminated from service on 01.05.1994. He has raised an Industrial Dispute in I.D.No.43 of 1995 and an award was passed on 28.02.2001, directing reinstatement of the second respondent with back wages. Aggrieved by the said direction, the Petitioner/Management has filed writ petition and the same was dismissed. Thereafter a writ appeal in W.A.No.1052 of 2017 was preferred and in the said appeal, the Hon'ble Division Bench of this Court has modified the order as hereunder:



W.P.(MD)No.17898 of 2014

WEB COPY

“9. In the result, the writ appeal is allowed in part and while sustaining the order in respect of reinstatement, it is made clear that the second respondent is not entitled for continuity of service and back wages. Therefore, the period of service already rendered before removal from service and the remaining period of service after reinstatement, alone shall be taken into consideration, while awarding the terminal benefits. The order of the learned single Judge in W.P.No. 7572 of 2002 dated 11.03.2010 is modified accordingly. No costs. Consequently, the connected miscellaneous petition is closed.”

3. In the meanwhile, the second respondent has filed a claim petition in C.P.No.181 of 2001 claiming a sum of Rs.1,08,312.90/-, as back wages with 12% interest. The said claim petition was allowed and aggrieved by the same, the Management has filed this Writ Petition. While, admitting this Writ Petition, the Petitioner/Management was directed to deposit a sum of Rs.50,000/- [Rupees Fifty Thousand Only]. As per said direction, the Petitioner/Management has deposited the said amount.



W.P.(MD)No.17898 of 2014

WEB COPY

4. The contention of the petitioner Management is that in writ appeal, the Hon'ble Division Bench of this Court has only granted reinstatement and not backwages and hence the present writ petition is filed to quash the order of the Labour Court.

5. It is submitted by the second respondent that, while admitting the Writ Petition, this Court has passed an interim order directing the Petitioner/Management to deposit a sum of Rs.50,000/- in the Nationalized Bank within a period of four weeks. This Court had also directed the Petitioner/Management to pay a sum of Rs.1,250/-, every month to the delinquent from September 2002 onwards and the delinquent had received the said amount from the year 2002 to 2017. On 27.06.2017, the petitioner was reinstated into service and he is receiving the salary from that date onwards. Hence the Learned Counsel for the second respondent submitted that the petitioner Corporation had deposited Rs.50,000/- in the Nationalized Bank and the interest accrued thereon shall be paid to the workmen. The learned counsel appearing for the second respondent further submitted that, if the 17B wages had already been paid, the same shall not



W.P.(MD)No.17898 of 2014

WEB COPY

be recovered from the second respondent. Likewise, if the interest is paid from the deposited amount of Rs.50,000/- the same shall not be recovered.

6. The contention of the petitioner's Management is that the delinquent was reinstated into service based on the Judgment rendered in Writ Appeal and the continuity of service and backwages were declined. In C.P.No.181 of 2001, the Labour Court, Tirunelveli has erroneously granted back wages and continuity of service. The learned counsel appearing for the second respondent fairly admitted that the said order is against the order passed by the Division Bench of this Court. In view of the above, this Court is of the considered opinion that the order of the Labour Court granting continuity of service and backwages is incorrect and hence the writ has to be allowed.

7. For the reasons stated above this Court is passing the following order:

a. If the 17B wages is already paid to the delinquent the said amount shall not be recovered.



WEB COPY



W.P.(MD)No.17898 of 2014

To

The Presiding Officer,
Labour Court,
Tirunelveli.



WEB COPY



W.P.(MD)No.17898 of 2014

S.SRIMATHY, J

ksa

W.P.(MD)No.17898 of 2014

09.09.2022