



W.P.(MD)No.16180 of 2014

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

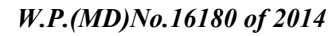
W.P.(MD)No.16180 of 2014

P.M.Mohammed Hanifa

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Madurai.
2. The Management
SNR Transport,
925, Gnanaolipuram,
Madurai – 10.
New address at)
Konnavaan salai,
Madurai.
3. The Management
SNR Road Ways,
No.4, East Masi Street,
Madurai – 10.
New address at)
Konnavaan salai,
Madurai.



- ... Respondents

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Respondent in so far as ordering 2nd to 6th Respondents to pay compensation of Rs.20,000/- to the petitioner, quash the same and consequently to direct the Respondents No. 2 to 6 to pay him wages from 26.09.1990 to the date of his retirement and all other attendant and terminal benefits as if he continued in his service from 26.09.1990.

For Petitioner : Mr.P.M.Mohammed Anifa
Party in person

For R1 : Labour Court

For R4 : Mr.C.Kathikeyan

ORDER

This writ petition is filed challenging the impugned award, dated 31.12.2010 in I.D.No.268/91, whereby directing the respondents No. 2 to 6 to pay Rs.20,000/-.

2. The petitioner was employed as Driver in the second respondent Transport. The contention of the second respondent is that the petitioner has committed an accident thereafter he was not regular in his service. The petitioner was regularly absenting himself from



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reporting to duty. The second respondent further submitted that the petitioner was his relative, in order to help him out he was granted him job from 1985 to 1990. The petitioner left the job at least thrice, from 1990 he had not reported to duty. The Labour Court after perusing all the records has rendered a finding that the petitioner has not established any legal ground to grant him relief for reinstatement. Aggrieved over the said order, the present writ petition has been filed.

3. The respondents No.2, 3, 5 and 6 even though notice served failed to appear before this Court. The Learned Counsel representing the petitioner failed to appear before this Court. The petitioner appeared as party-in-person. The 4th respondent is represented by an Advocate and the Learned Counsel is present in the Court.

4. The contention of the petitioner is that the Labour Court has held that the termination of service is illegal but without reinstatement, has granted only compensation. The further contention of the petitioner is that the other respondents had not let in any evidence, since no



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evidence adduced on the side of the second respondent, the petitioner is entitled to to backwages with reinstatement.

5. Heard Mr.P.M.Mohammed Anifa, appeared party in person, Mr.C.Kathikeyan, learned Counsel appearing for the fourth respondent and perused the records.

6. The learned Counsel appearing for the fourth respondent submitted that the petitioner had filed two petitions before the Labour Court and the petitioner has come up with present writ petition against I.D.No.268/91. The Industrial Dispute award was passed in the year 2010. But the petitioner has filed a writ petition in the year 2014 and there is a delay. Hence, the writ petition is not maintainable based on delay and latches. Admittedly the writ petition is filed after lapse of four years and it is belatedly filed and the writ petition is hit by the principles of delay and latches. Since the petitioner is not in service, this Court is inclined to condone the delay and entertain this writ petition.



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7. The next contention that was raised by the fourth respondent is that the petitioner has filed this writ petition after attaining superannuation. At the time of filing this writ petition, the petitioner was 65 years and as of now, he is 73 years old. Therefore, there is no question of reinstatement at all. This Court is of the considered opinion that the plea of the fourth respondent is absolutely right. Therefore, this Court is of the considered opinion that the petitioner is not entitled to reinstatement.

8. The next contention that was raised by the learned Counsel appearing for the fourth respondent is that the second respondent has accepted before the Labour Court that the petitioner was granted employment in the second respondent Transport. Therefore, the second respondent is liable to pay the compensation amount that was granted by the Labour Court. On perusing the order, this Court is of the considered opinion that the Labour Court has directed the second respondent to pay the amount. However, the second respondent was also granted liberty to pay the amount and collect from the other respondents.



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9. Considering the facts and circumstances of the case, this Court is inclined to increase the compensation and the respondents shall pay Rs.50,000/- (Rupees Fifty Thousand only). Admittedly, the petitioner has not worked from the year 1990 onwards in the second respondent Transport, hence, the petitioner is not entitled to any backwages and continuity of service. The second respondent shall pay the amount of Rs.50,000/- (Rupees Fifty Thousand only) within period of four weeks from the date of receipt of a copy of this order. The second respondent is at liberty to pay and recover from the other respondents of their share.

10. With the above said modification, this Writ Petition is disposed of. No costs.

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Index : Yes / No
Internet : Yes / No
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S.SRIMATHY, J

jbr

To

The Presiding Officer,
Labour Court,
Madurai.

Order made in
W.P.(MD)No.16180 of 2014

22.11.2022

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