



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.03.2022

CORAM

THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P. (MD)Nos.23192 of 2015 and 18261 of 2016
and
M.P. (MD)No.1 of 2015

W.P. (MD)No.23192 of 2015 :

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye Pass Road, Dindigul. ... Petitioner
vs.
1.The Presiding Officer,
Labour Court, Madurai.

2.A. Palanivel ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in I.D.No.110 of 2012, dated 27.08.2014, on the file of the 1st Respondent and to quash the same.

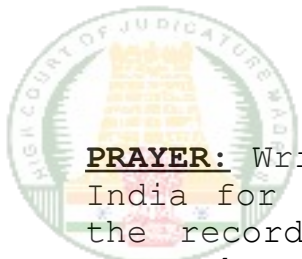
For Petitioner	: Mr.J.Senthil Kumaraiah
For R1	: Labour Court
For R2	: Mr.S.Govindan

W.P. (MD)No.18261 of 2016:

A.Palanivel ... Petitioner
vs.
1.The Presiding Officer,
Labour Court, Madurai.

2.The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Bye Pass Road, Madurai-625 016 ... Respondents

(Formerly known as Tamilnadu State Transport
Corporation, (Madurai-Division IV) Limited,
Dindigul.



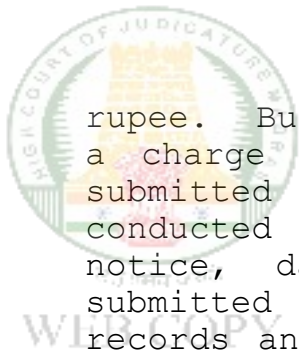
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records connected with the impugned order passed by the 1st respondent in I.D.No.110/2012, dated 27.08.2014, in so far the denial of continuity of service for the period from 01.10.2009 to 03.10.2012 for 3 years and to quash the same and consequently, to direct 2nd respondent to count the period of service from 01.10.2009 to 03.10.2012 notionally without back wages for the purpose of calculation of pensionary benefits.

For Petitioner : Mr.S.Govindan
For R1 : Labour Court
For R2 : Mr. J.Senthil Kumaraiah

COMMON ORDER

The petitioner management has filed the Writ Petition in W.P. (MD) No. 23192 of 2015. The individual has also challenged the same I.D. in W.P. (MD) No. 18261 of 2016, challenged that portion of the order, wherein, the I.D. has stated not to include the period from 01.10.2009 to 03.10.2012. It is a period of delay in challenging the dismissal order. The Labour Court has directed the management to reinstate Palanivel with continuity of service excluding the period from 01.10.2009 to 03.10.2012 without backwages.

2. The brief facts of the case are that the second respondent in W.P.(MD)No.23192 of 2015, was working as a Conductor in the petitioner Corporation. On 07.10.2002, the second respondent while working as Conductor in Vadugapatti-Dindigul route, a surprise check was conducted, wherein, he has omitted to write the total collection amount for each trip and he was not possessing the Conductor License with him. Moreover, he used abusive language against the Checking Inspectors. He also refused to sign the staff memo. After enquiry, the second respondent wantonly delayed the departure of the bus from Dindigul bus stand. On the basis of the report of the Checking Inspectors, a charge memo was issued on 11.10.2002 and he submitted an explanation on 15.10.2002. The domestic enquiry was conducted and the enquiry report, dated 20.02.2003, states that the charges levelled were proved. Along with the enquiry report, a notice, dated 17.03.2003, was issued to the second respondent, calling for his objections, the second respondent submitted his explanation on 21.04.2003. After going through all the records and the past records, the second show cause notice, dated 09.05.2003, was issued, proposing the punishment of dismissal from service. The delinquent submitted an explanation on 27.05.2003. Thereafter, while he was working as a Conductor on 12.02.2003, in the bus route of Gopalapatti to Dindigul, the Checking Inspectors checked Palanivel on the road. It was found that he collected fair of Rs.8/- from two passengers and issued two tickets of Rs.3.50/- value. Thereby, the second respondent misappropriated the difference amount of one



rupee. But, on the basis of the report of the Checking Inspectors, a charge memo, dated 15.02.2003, was issued and the delinquent submitted his explanation on 18.02.2003. The domestic enquiry was conducted based on the enquiry report, dated 07.04.2003 and a notice, dated 21.03.2003 was issued. The second respondent submitted his objections, dated 13.05.2003, based on the past records and the materials on record. A second show cause notice, dated 19.05.2003, was issued proposing punishment of dismissal from service and the delinquent had submitted his explanation. Thereafter, he was dismissed from service for the charges proved in the above said two domestic enquiry, vide final order, dated 18.12.2003. The said dismissal was approved by an order dated 12.02.2005. The second respondent filed a Writ Petition in W.P.No.200 of 2006. This Court, vide order, dated 26.09.2007, dismissed the Writ Petition. After a lapse of two years, he filed I.D.No.110 of 2012 and after hearing the parties the impugned order was passed. Aggrieved over the same, the Corporation has filed a Writ Petition.

3.Heard Mr.J.Senthil Kumaraiah, learned Counsel appearing for the management and Mr.S.Govindan, learned Counsel appearing for the individual respondent.

4.The management has submitted that the delinquent is having 45 past delinquencies and 5 of them have similar transactions and he always uses filthy language and shows disobedience against the higher authorities. The management has given proper natural justice to him to prove his case and there is no violation of principles of natural justice. The Labour Court after taking into all these things into consideration ought not to have directed the management to grant continuity of service. The Labour Court has not taken into account that the passenger cannot be produced before the domestic enquiry to prove the case of the management.

5.The learned Counsel appearing for the said delinquent submitted that he is on the verge of superannuation and prayed to confirm the order of Labour Court.

6. After perusing the records and taking into account the fact that delinquent is on the verge of retirement and is being paid 17 B wages all these years, in order to meet the ends of justice, this Court is modifying the punishment as compulsory retirement. The compulsory retirement shall be from the date of this order. The delinquent is not eligible for reinstatement. With this modification, both the Writ Petitions are disposed of. The management is directed to implement this order in letter and spirit and disburse the terminal benefits to the second respondent within a period of eight weeks from the date of receipt of a copy of this order, so as to avoid another round of litigation among the parties.

7. With the above direction, the Writ Petitions are disposed



of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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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

- 1.The Presiding Officer,
Labour Court, Madurai.
- 2.The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye Pass Road, Dindigul.

W.P.(MD)Nos.23192 of 2015 and 18261 of 2016
10.03.2022

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