



W.P.(MD)No.19313 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.19313 of 2016

and

W.M.P.(MD)No.13921 of 2016

A.Sundaram

... Petitioner

vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli District.

2.The Management,
Tamil Nadu State Transport Corporation
(Madurai Limited),
Tirunelveli Zonal,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the order passed by the 1st respondent in I.D.No.75 of 2011, dated 27.03.2012 and 22.05.2012, confirming the order of termination passed by the 2nd respondent in order no. 10721/Sa6/Ta.A.Poku/2001/4770/Sa6/2002, dated 03.03.2003 and to quash the same as illegal and to direct the 2nd respondent to reinstate the petitioner as conductor in the 2nd respondent corporation.



W.P.(MD)No.19313 of 2016

WEB COPY

For Petitioner : Mr.K.R.Laxman
For R1 : Labour Court
For R2 : Mr.K.Sathiya Singh

ORDER

This writ petition is filed for issuance of a writ of Certiorarified Mandamus, to call for the order passed by the 1st respondent in I.D.No.75 of 2011, dated 27.03.2012 and 22.05.2012, confirming the order of termination passed by the 2nd respondent in order no.10721/Sa6/Ta.A.Poku/2001/4770/Sa6/2002, dated 03.03.2003 and to quash the same as illegal and to direct the 2nd respondent to reinstate the petitioner as conductor in the 2nd respondent corporation.

2.The allegation against the petitioner is that the petitioner deliberately without getting promotion from the higher official absented himself from service for more than 68 days. In the year 2001, the petitioner has taken leave from 17.07.2001 to 24.07.2001, ie., 8 days and in the year 2002, the petitioner has taken leave from 28.08.2002 to 26.10.2002, ie., 60 days. According to the petitioner, it is medical leave for which the medical certificate was also submitted.



W.P.(MD)No.19313 of 2016

WEB COPY

The petitioner did not receive the charge sheet itself. There was no records produced for such return. The 2nd respondent employer in order to grant opportunity has intimated the said charge sheet through post.

3.The contention of the petitioner is that though the charge sheet was sent by post as per the 2nd respondent, he did not receive the same, since he was on medical leave suffering from certain medical problems. He was not in a position to receive the charge sheet. However, the 2nd respondent conducted an ex-parte enquiry. Thereafter, terminated the petitioner from service. The petitioner challenged the said termination order before the Labour Court. The Labour Court has stated in the preliminary award that the petitioner has deliberately avoided receiving the summons and has deliberately deprived from attending the enquiry. The petitioner has denied to receive the said post and the subsequent notice. The Labour Court has taken the denial as an appropriate opportunity was granted to the petitioner. But the petitioner has deliberately denied to receive the letters. Hence, this would amount to granting of proper opportunity. But the fact remains that the petitioner has not received the charge sheet and has not attended the



W.P.(MD)No.19313 of 2016

WEB COPY

enquiry at all. The petitioner has not submitted any explanation as well as the petitioner has not participated in the enquiry. The 2nd respondent has passed an ex-parte order. The ex-parte order was challenged before the Labour Court.

4.The contention of the petitioner is that since he was ill, he was not in a position to receive the notice and attend the enquiry. This Contention is not acceptable. The petitioner has not clearly stated about his illness and has not pleaded that he was assisted by nobody. Since the petitioner has attained superannuation as on date, this Court is inclined to modify the punishment as compulsory retirement.

5.Therefore, the 2nd respondent is directed to implement the order of punishment of compulsory retirement and grant benefits that are applicable to the petitioner. Therefore, the petitioner is entitled to get the benefits until the date of superannuation and not beyond that. With this clarification, the 2nd respondent is directed to confer all the terminal benefits to the petitioner. The above exercise shall be completed within a period of 8 weeks from the date of receipt of a copy



W.P.(MD)No.19313 of 2016

WEB COPY

of this order.

6.With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes

17.10.2022

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To

The Presiding Officer,
Labour Court,
Tirunelveli District.



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W.P.(MD)No.19313 of 2016

S.SRIMATHY, J

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W.P.(MD)No.19313 of 2016

17.10.2022