



W.P.(MD)No.8403 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.8403 of 2016

P.Chelliah

... Petitioner

Vs.

1.S. Karuppaiah,
Presiding Officer,
The Labour Court,
Tirunelveli.

2.AD.Jalaja, Manager,
AD Jalaja Transport,
3A/2, Manakavalam Pillai Hospital Street,
Palayamkottai - 627 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of *Certiorarified Mandamus*, to direct the first respondent to call for the order passed in I.D.No.31 of 2007 on the file of first respondent, dated 29.01.2015 and quash the same as far as denial of back wages for the actual period of illegal termination and direct the second respondent to disburse the back wages from 23.07.2005 to till date.



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For Petitioner : Mr.B.Saravanan
R1 : Court
For R-2 : Mr.M.Jerin Mathew

ORDER

This Writ Petition has been filed for issuance of *Certiorarified Mandamus*, to quash the order passed by the 1st respondent in I.D.No.31 of 2007, dated 29.01.2015, as far as denial of back wages for the actual period of illegal termination and direct the 2nd respondent to disburse the back wages from 23.07.2005, to till date.

2. The petitioner was working as Driver under the 2nd respondent Transport. On 22.07.2015, while he was driving a bus he had parked the same at Shanthi Pillaiyar Kovil Street and the bus Conductor one Mr.Ramachandiran without having any proper license had taken the said bus and dashed against a TVS Excel moped and caused damage to the vehicle and injured the driver. Since the petitioner was duty driver, he was implicated in the disciplinary proceedings and he was terminated



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from service on 23.07.2005. The petitioner has challenged the said order of dismissal before the Labour Court, wherein, the petitioner prayed for reinstatement along with back wages. The 2nd respondent contested the case.

3. The allegation against the petitioner is that, he permitted the Conductor to drive the bus. The Conductor has also admitted before the authorities that the petitioner permitted the said Conductor to drive the bus. After conducting an enquiry, the petitioner was dismissed from service. The petitioner had challenged the dismissal order before the Labour Court. The Labour Court directed the management to reinstate the petitioner, vide order, dated 29.01.2015. The same was also challenged before this Court and this Court has also remitted back the matter to the Labour Court for fresh consideration. But, there was no fresh evidence adduced before the Labour Court. Thereafter, the Labour Court, has passed an order, dated 29.01.2015, by relying the order, dated 15.02.2010 and dealt the entire issue. Finally, the Labour Court has



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found that punishment of dismissal of service is disproportionate. However, the Labour Court declined back wages. Against the order of declining the back wages, the instant Writ Petition is filed before this Court.

4. The learned counsel appearing for the 2nd respondent submitted that, since the petitioner has not worked during the said period, the principles of '*No work No pay*' the Labour Court denied the back wages. Hence, the Labour Court has rightly denied back wages. Hence, prayed to dismiss the writ petition.

5. Heard Mr.B.Saravanan, learned counsel appearing for the petitioner and Mr.M.Jerin Mathew, learned counsel appearing for the 2nd respondent. Perused the material documents available on record.

6. The petitioner was dismissed from service on 23.07.2005. The petitioner filed a memo that he worked in Tamil Nadu State



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Transport Corporation from 11.03.2011. The petitioner had also admitted that he had worked in some other transport from 12.04.2007 for some time and then had worked in State Transport Corporation from 11.03.2007. The petitioner had filed this writ petition claiming backwages from 23.07.2005. Since he was gainfully employed in various transport, the Labour Court had fixed and granted backwages only for a period from 01.05.2010 to 10.03.2011. The Labour Court has given a categorical finding that the writ petitioner had admitted in his cross examination that he was working as driver in yet another bus company from 11.03.2011 and he has also received salary for the same. This Court is of the considered opinion that there is no infirmity in fixing the wages for the period from 01.05.2010 to 10.03.2011, for which period the petitioner was not gainfully employed.

7. But, the writ petitioner has not stated, how much salary he has received from the other bus Transport. The Labour Court has held that the management has not furnished the salary details and hence, back



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wages could not be fixed. The respondent had filed a writ petition in the earlier round of litigation, wherein it was stated that the management had to pay a sum of Rs.4,500/-per month. Based on this fact, the Labour Court has fixed back wages for a period from 01.05.2010 to 10.03.2011, at the rate of Rs.4,500/-per month.

8. In view of the aforesaid reasons, there is no infirmity in fixing the backwages for the said period and the rate of backwages. Therefore, this Court is not inclined to interfere with the order passed by the Labour Court.

9. Accordingly, this Writ Petition stands dismissed. The order passed by the Labour Court in I.D.No.31 of 2007, dated 29.01.2015, is hereby confirmed. No Costs.

Index : Yes / No
Internet : Yes
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To

The Presiding Officer,
The Labour Court,
Tirunelveli.



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S.SRIMATHY, J

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