



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 17-07-2023

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.No.1375 of 2021

The Management,
Tamil Nadu State Transport Corporation
(Madurai Cottam-3) Limited,
rep.by its Managing Director,
Nesamani Nagar,
Ranithottam, Nagercoil,
Kanyakumari District.

...

Appellant

-VS-

1.A.Mohan

2.The Presiding Officer,
Labour Court,
Tirunelveli.

...

Respondents

Appeal is filed under Clause 15 of the Letters Patent against the order,
dated 23.04.2019, passed in W.P.No.25637 of 2003 on the file of this Court.

For Appellant : Mr.Ramanlal,
Addl.Advocate General,
assisted by Mr.C.Gouthamaraj.

For Respondent 1 : Mrs.Meenakshi for Mr.K.Suresh

**JUDGMENT**

(By *S.Vaidyanathan,J.*)

Pursuant to the orders of this Court, dated 12.07.2023, Managing Director of the appellant Corporation has appeared before the Court through online and submitted two options, they being one as to the payment of 50% of back-wages from 1994 to 2009 and the other to pay full wages from the date of Award till the date of reinstatement in the year 2009.

2. Taking note of the submission of the Managing Director, the order of the learned single Judge is modified into one of full wages from the date of Award till the date of reinstatement. First respondent - employee would not be entitled to back-wages from the date of dismissal till the date of Award. Though normal rule is to grant 100% back-wages on reinstatement, Courts have drawn exception that back-wages are not automatic.

3. It is represented by Mrs.Meenakshi, learned counsel appearing for the respondent employee, that the employee has been reinstated, has attained superannuation and been drawing pension. However, according to her, continuity of service has not been granted.



4. Mr.C.Gouthamaraj, learned counsel for the appellant Corporation, would submit that the employee has been extended the benefit of continuity of service and now drawing pension.

5. As the question of reinstatement is not in dispute and that continuity of service alone is in dispute, if continuity of service is not granted, the employee would be entitled to the same as if there is no order of dismissal in the eye of law. Back-wages for the period from the date of dismissal till the date of reinstatement alone are deprived. We reiterate that the employee shall be given continuity of service by taking into account the entire service as a notional one and, if continuity of service is not given, back-wages shall be paid from the date of Award till the date of superannuation and subsequent revision carried out for higher pension.

6. Writ Appeal is disposed of accordingly. No costs. Consequently, the connected C.M.P.No.8587 of 2021 is closed.

Index : Yes/No
Internet : Yes/No
dixit

(S.V.N.,J.) (K.R.S.,J.)
17-07-2023

To
The Presiding Officer,
Labour Court,
Tirunelveli.



S.VAIDYANATHAN,J.
AND
K.RAJASEKAR,J.

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