



W.P.No.13051 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2023

CORAM

**THE HONOURABLE MR.JUSTICE M.DHANDAPANI**

W.P.No.13051 of 2016

and W.M.P.No.11393 of 2016

The Managing Director,  
State Express Transport Corporation Ltd,  
Chennai-2.

. . . Petitioner

Vs.

1. The Presiding Officer,  
Labour Court,  
Salem.

2.A.Arumugam

3.The Branch Manager,  
Salem Corporation,  
Tamilnadu State Express Transport Corporation,  
Salem.

4.District Employment Officer,  
Employment Office,  
Trichy.

. . . Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari or any other Writ, direction or order in the nature of Writ of Certiorari to call for the records of the 1<sup>st</sup> Respondent in ID No.126/2001 dated 23.11.2020 and quash the award passed in ID No.126/2001 dated 23.11.2010 as illegal.



W.P.No.13051 of 2016

For petitioner : Mr.S.Sivasubramanian  
For Respondents : Mr.K.V.Shanmuganathan for R2  
: Mr.V.Ravi,  
Special Government Pleader for R4.

### **ORDER**

Aggrieved by the order passed by the 1<sup>st</sup> respondent in I.D.No.126/2001 dated 23.11.2010, the petitioner is before this Court.

2. It is the case of the petitioner that the 2<sup>nd</sup> respondent entered into the service of the Petitioner Corporation as a casual Driver from 1997. Since, the service of the 2<sup>nd</sup> respondent was not satisfactory as also the 2<sup>nd</sup> respondent has committed a fatal accident during the course of his employment on 06.04.1997, he was removed from the service of the Petitioner Corporation. Aggrieved by the same, the 2<sup>nd</sup> respondent raised an industrial dispute before the 1<sup>st</sup> respondent/labour court in I.D.No.126/2001 wherein, the labour court has ordered for reinstatement with backwages and other benefits with continuity of service. Challenging the same, the petitioner is before this Court.



W.P.No.13051 of 2016

3. Learned counsel for the petitioner submits that this Court while entertaining this Writ Petition, had granted an order of interim stay upon condition that the petitioner Corporation shall deposit the entire back wages to the tune of Rs.6,49,800/- as ordered by the labour court and accordingly, the said amount was deposited by the petitioner to the credit of the I.D.No.126 of 2001. However, at the time of entering into the service, the 2<sup>nd</sup> respondent was aged about 39 years and now, he has crossed the age of superannuation. At this point of time, the 2<sup>nd</sup> respondent cannot avail the benefit of the award passed by the labour court insofar as reinstatement and the continuity of service. Hence, this Court may modify the award passed by the labour court.

4. Learned counsel appearing for the 2<sup>nd</sup> respondent submits that this Court may modify the award passed by the labour court and allow the 2<sup>nd</sup> respondent to withdraw the backwages, which has been deposited by the petitioner corporation to the credit of I.D.No.126/2001.

5. This Court heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No.13051 of 2016

6. In view of the fact that the 2<sup>nd</sup> respondent has attained the age of superannuation, the question of reinstatement as also the continuity of service does not arise and to that extent, the order of the labour court stands modified and the petitioner is entitled for the backwages. Hence, the 2<sup>nd</sup> respondent is permitted to withdraw the back wages deposited by the petitioner corporation in compliance of the order passed by this Court. Accordingly, the award passed by the labour court stands modified to the aforesaid extent.

7. This Writ Petition stands allowed in the above terms. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition are closed.

**06.07.2023**

Index : Yes / No

Internet : Yes / No

NHS



W.P.No.13051 of 2016

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W.P.No.13051 of 2016

**M.DHANDAPANI, J**

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W.P.No.13051 of 2016

06.07.2023