



W.P.Nos.18607 of 2015 and 30193 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.Nos.18607 of 2015
and 30193 of 2019

W.P.No.18607 of 2015:-

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem-636 007.
represented by its Managing Director ... Petitioner

-Vs-

1. The Presiding Officer,
Labour Court, Salem.

2. D.Jayakumar ... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the records passed by the first respondent in I.D.No.24 of 2013 dated 11.02.2015 and to quash the same.



W.P.Nos.18607 of 2015 and 30193 of 2019

W.P.No.30193 of 2019:-

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D.Jayakumar

... Petitioner

-Vs-

The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Salem-7.

... Respondent

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the respondent in Letter No.1019/Commercial TNSTC (Salem)/2019 dated 24.07.2019 and quash the same and direct the respondent to issue retirement order to the petitioner as on 30.04.2015 along with salary for the month of June 2013, 18 days salary for the month of February 2015, March 2015 and April 2015 and deficit salary of Rs.3483/- before passing the dismissal order on 27.01.2011 and batta for the non-employment period due and payable out of 25% and to settle the service benefits i.e., pension, gratuity, Provident Funds, Earned Leave benefits etc., with 12% interest to the petitioner till the payment is made in the light of the order made in M.P.No.1 of 2015 in W.P.No.18607 of 2015 dated 22.01.2016.

In W.P.No.18607 of 2015

For Petitioner : Mr.R.Babu

For Respondents

R1 : Court

R2 : Mr.J.Venkatraman

for Mr.J.Agni Selvaraju



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W.P.Nos.18607 of 2015 and 30193 of 2019

In W.P.No.30193 of 2019

For Petitioner : Mr.J.Venkatraman
for Mr.J.Agni Selvaraju

For Respondent : Mr.R.Babu

COMMON ORDER

The W.P.No.18607 of 2015 has been filed challenging the order passed by the first respondent dated 11.02.2015 in I.D.No.24 of 2013, thereby modified the punishment imposed by the petitioner Management from removal from service to stoppage of increment for the period of two years with service continuity and 25% of backwages and ordered to reinstate the second respondent into service.

2. The W.P.No.30193 of 2019 has been filed rejecting the request made by the petitioner to implement the award passed by the labour Court in I.D.No.24 of 2013 dated 11.02.2015, on the ground that already the Management had challenged the award and it is pending in W.P.No.18607 of 2015.

3. Heard the learned counsel on either sides and perused the



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materials available on record.

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W.P.No.18607 of 2015:-

4. The second respondent was working as a Driver under the petitioner Management. There was a crew counselling meeting conducted on 24.11.2009 at about 11.30 hours in Meyyanur Branch of the petitioner Corporation. In the said crew counselling meeting, the second respondent disturbed the meeting and misbehaved with the officials by using filthy language. The activity of the second respondent created unrest among other employees. Therefore, the second respondent was served with a charge memo dated 27.11.2009 for the action of the second respondent punishable under Clause 19(1)(K) of the Standing Order of the petitioner Corporation.

5. On receipt of the charge memo, the second respondent submitted his explanation dated 03.12.2009. Thereafter, the Enquiry Officer was appointed and conducted enquiry. However, the second respondent failed to participate in the enquiry, though several opportunities were given to him. The Enquiry Officer submitted his enquiry report dated 17.08.2010 and held the charges framed against the



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second respondent as proved. On receipt of the enquiry report, the second respondent was served with second show cause notice to submit his explanation. On receipt of the same, the second respondent submitted his detailed explanation dated 27.09.2010. However, it was not satisfactory and as such the petitioner Management imposed punishment of removal from service by an order dated 27.01.2011.

6. Therefore, the second respondent raised an industrial dispute in I.D.No.24 of 2013 before the first respondent. The first respondent held that though the charges framed against the second respondent were proved, the punishment of removal from service was disproportionate to the charges. Therefore, the first respondent had set aside the order of removal from service and ordered to reinstate the second respondent into service with service continuity and 25% of backwages and other accountant benefits and imposed punishment by postponement of communal increment for a period of two years with cumulative effect.

7. In pursuant to the said award, the second respondent made



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request to implement the said award. However, the petitioner Management rejected the request made by the second respondent, on the ground that already they had challenged the award passed by the first respondent in W.P.No.18607 of 2015.

8. A perusal of records revealed that the second respondent shouted against the higher officials and used filthy language. However, the punishment of removal from service was disproportionate to the charges and as such the first respondent had rightly set aside the order of removal from service and imposed punishment of postponement of communal increment for a period of two years with cumulative effect.

9. In view of the above, this Court finds no infirmity or illegality in the order passed by the first respondent in I.D.No.24 of 2013 dated 11.02.2015 and the writ petition is devoid of merits and is liable to be dismissed. Accordingly, W.P.No.18607 of 2015 is dismissed. There shall be no order as to costs.

10. In view of the order passed in W.P.No.18607 of 2015, the



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order passed by the respondent in W.P.No.30193 of 2019, vide Letter No.1019/Commercial TNSTC (Salem)/2019 dated 24.07.2019 is hereby quashed. The W.P.No.30193 of 2019 is allowed. There shall be no order as to costs.

11. Since the petitioner in W.P.No.30193 of 2019 had already attained the age of superannuation, the question of reinstatement into service does not arise. However, the respondent in W.P.No.30193 of 2019 is directed to disburse all the benefits as claimed by the petitioner in W.P.No.30193 of 2019, within a period of four weeks from the date of receipt of a copy of this order.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
mn



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G.K.ILANTHIRAIYAN, J.

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To

1. The Presiding Officer,
Labour Court, Salem.
2. The Managing Director,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
Salem-7.

W.P.Nos.18607 of 2015 and 30193 of 2019

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