



W.P.No.38464 of 2016

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2023

CORAM

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

W.P.No.38464 of 2016
and WMP.No.32944 of 2016

The Management
Metropolitan Transport Corporation,
Pallavan Illam, Chennai-2.

...Petitioner

Vs

1. The Presiding Officer,
II Additional Labour Court,
City Civil Court, Annexure Building,
High Court Compound,
Chennai-104.

2. S.Mohana Krishnan

...Respondents

The writ petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorari calling for the records pertaining to the order passed in ID No.186 of 2004 dated 22.03.2013 on the file of the first respondent herein and quash the same.



W.P.No.38464 of 2016

WEB COPY For Petitioner : Mr.M.Chidambaram

For Respondents : Mr.S.Ravi R2

ORDER

The petitioner has filed the present writ petition seeking to quash the order passed in ID No.186 of 2004 dated 22.03.2013 on the file of the first respondent herein.

2. It is the case of the petitioner that the second respondent was appointed as Conductor in the year 1998 by the petitioner. On 12.08.1998, when the second respondent was in duty, the bus was checked by the checking squad. Whereas the second respondent had committed irregular in issuing the tickets. Moreover, the second respondent has misappropriated the Corporation of revenue. The second respondent collected fare and he issued sold 7 numbers of tickes to the passengers. The Checking squad had submitted their report to the Management. Based upon the report, a charge memo was issued to the second respondent on 18.08.1998 asking to submit his explanation and he was suspended from service. Whereas the second respondent



W.P.No.38464 of 2016

WEB COPY

submitted his explanation on 25.08.1998. The Management ordered to conduct domestic enquiry and the Enquiry Officer has filed report on 22.09.1999 that all the charges framed against the second respondent were proved and hence, the second respondent was terminated from service. Challenging the termination order, the second respondent filed appeal and the same was kept pending. Therefore, the second respondent filed writ petition in W.P.No.39543 of 2002 before this Court. Whereas this Court directed the Management to dispose of the appeal. Pursuant which, the appeal was rejected. Against the said termination, the second respondent raised dispute in the year 2004. The Labour Court passed an award in favour of the second respondent and directed the Management to reinstate the second respondent into service with continuity of service without backwages and other attendant benefits. Challenging the said order, the petitioner Management has filed the present writ petition.

3. The learned counsel for the petitioner Management submitted that the second respondent is a habitual offender who was already punished for eight times the very same charges. Even though the



W.P.No.38464 of 2016

WEB COPY

domestic enquiry was held fair and proper manner, the Labour Court directed the petitioner to reinstate the second respondent into service which is not sustainable one. However, the second respondent has attained the age of superannuation in the year 2013 itself and therefore, there is no chance for reinstatement. Without considering all these facts, the first respondent passed an order for reinstatement with continuity of service, which is non-est in law.

4. The learned counsel for the second respondent submitted that admittedly the second respondent entered into an service in the year 1977. After rendering service, the present charge memo has issued to the second respondent for sold the old tickets to the passengers and the same was not established before the Labour Court. Thereby, the Labour Court passed an order in favour of the second respondent, which need not be interfered with.

5. Heard the learned counsel counsel on either side and perused the materials available on record.



W.P.No.38464 of 2016

WEB COPY

6. The facts of the case are not in dispute. Admittedly, the second respondent had entered into service in the year 1977. He was terminated from service in the year 1998 alleging that the second respondent was sold the old tickets to the passengers. However, the Labour Court passed an award in favour of the second respondent.

7. This Court perused the original records which was filed by the Management before the Labour Court. The Management has stated in the affidavit that the enquiry was conducted in a fair and proper manner and the second respondent is a habitual offender and on the earlier occasion, he was punished for eight times the same type of offence, During enquiry before the Labour Court, the management has filed a conciliation failure reort, which was marked as Ex.MW12, show cause notice was marked as Ex.MW13, an explanation of the second respondent was marked as Ex.MW14 and a termination order was marked as Ex.MW15. But the Management has not filed any other documents to prove the charges against the second respondent that itself shows that the enquiry was not



W.P.No.38464 of 2016

WEB.COM

conducted in a proper manner and no other document was filed for the earlier punishment imposed on the second respondent.

8. Now the issue arises in the present petition is that whether the second respondent is entitled for reinstatement or not. The second respondent joined duty in the year 1977 and he retired from service in the year November-2013. Whereas the second respondent passed an award in the year March 2013. The learned counsel fairly submitted that the first respondent has been retired from the service at the age of superannuation and it is practically impossible for reinstatement of granting service.

9. Considering the facts and circumstances of the case, this Court passes the following orders:

1. The petitioner is directed to pay the terminal benefits including pension to the second respondent from the date of absorption till the date of termination of service within a period of eight weeks from the date of receipt of a copy of this order. ; and



W.P.No.38464 of 2016

WEB COPY

2.The first respondent is not entitled for continuity of service and back wages during the non-employment period."

10. With the above directions, an award in ID NO.186 of 2004 dated 22.03.2013 on the file of the first respondent is modified and the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

12.07.2023

rli

Index: yes / no

Internet : yes / no

Speaking / Non speaking order

To

1. The Management
Metropolitan Transport Corporation,
Pallavan Illam, Chennai-2.

2. The Presiding Officer,
II Additional Labour Court,
City Civil Court, Annexure Building,
High Court Compound,



W.P.No.38464 of 2016

WEB CO Chennai-104.



WEB COPY



W.P.No.38464 of 2016

M.DHANDAPANI, J.

rli

W.P.No.38464 of 2016

12.07.2023