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W.P.No.15925 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.15925 of 2018

and

W.M.P.No.18927 of 2018

The Management,
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore Division – I), Mettupalayam Road,
Coimbatore – 641 043.

... Petitioner

Vs

1.P.Karuppusamy

2.The Presiding Officer,
Labour Court,
Coimbatore.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the second respondent's award passed in I.D.No.565 of 2008 dated 22.08.2017 on the file of the Labour Court, Coimbatore and quash the same.

For Petitioner : Mr.A.Sundaravadanam
For Respondents : Mr.V.Ajoy Khose [R1]
Labour Court [R2]

ORDER



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This Writ Petition has been filed by the petitioner seeking to quash the order dated 22.08.2017 in I.D.No.565 of 2008 on the file of the Presiding Officer, Labour Court, Coimbatore.

2. The first respondent joined in the services of the petitioner Transport Corporation as a driver on 15.10.1987. At the time of entering the service, he produced educational certificate allegedly issued by the Head Master of the C.S.I. Nithi Sagaya Primary School, Somamuthu, Tharapuram, Erode District. In the year 2002, the petitioner Corporation verified the said certificate and found that the said certificate was tampered one. After receipt of the intimation from the school authorities, the petitioner Corporation issued a charge memo on 16.10.2002 and after conducting enquiry, he was dismissed from service on 19.06.2004. Aggrieved by the same, the first respondent approached the conciliation officer and the conciliation officer submitted a failure report. Thereafter, the first respondent raised a dispute before the second respondent/Labour Court in I.D.No.565 of 2008 and the Labour Court passed an award dated 22.08.2017 directing



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the petitioner to pay a sum of Rs.2,50,000/- by way of compensation in lieu of reinstatement and backwages to the first respondent within one month from the date of coming into force of the award, failing which, it shall carry interest at the rate of 6% per annum. Challenging the same, the petitioner Corporation is before this Court.

3. The learned counsel appearing for the petitioner Corporation submitted that the first respondent tampered his educational qualification as if he has failed in VI Standard. Though the driver post does not require any qualification, however, ability to read and write is sufficient. Even then, it is for the first respondent to produce necessary documents to prove his ability to read and write. In the present case, the first respondent produced educational certificate, which was subsequently, verified in the year 2002 and the same revealed that the said certificate is tampered and the said certificate is not tallied with the original records possessed by the school authorities. After receipt of the information, the order of dismissal was passed. The Labour Court arrived at a conclusion that the certificate



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produced by the first respondent is tampered. However, even then, they awarded a compensation of Rs.2,50,000/- in lieu of reinstatement and backwages in favour of the first respondent, which is not sustainable. Accordingly, he prays for allowing the writ petition.

4. Per contra, the learned counsel appearing for the first respondent submitted that the first respondent entered the service in the year 1987 as a driver and the ability to read and write is sufficient to hold the post of driver and there is no specification in educational qualification for the same. In the present case, the first respondent produced a certificate to prove his educational qualification and to prove his ability to read and write. However, the petitioner Corporation instead of verifying the same at the relevant point of time, they decided to verify the certificate in the year 2012, after a lapse of 15 years, which itself is not sustainable.

5. Further, there is no minimum educational qualification prescribed



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for the post of driver and the ability to read and write is sufficient. The petitioner Corporation claimed that the first respondent tampered the educational certificate. In the domestic enquiry conducted by the petitioner Corporation, the school authorities were not examined and they were not examined before the Labour Court also. Non-examination of the educational authorities before the Labour Court and the departmental enquiry is fatal to the case. Accordingly, he prays for dismissal of the writ petition.

6. Heard the learned counsel appearing for the petitioner Corporation and the learned counsel appearing for the first respondent and perused the materials available on record.

7. Admittedly, in the year 1987, the first respondent entered the service as a driver in the petitioner Corporation. At the relevant point of time, he allegedly tampered the educational certificate and produced the same before the petitioner Corporation. However, the petitioner Corporation taken their sweet time to verify the said records only in the year 2002, after a



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lapse of 15 years. Normally, when the person rendered 15 years of service, he is entitled for pension, since he has completed the full qualifying service. However, the petitioner Corporation miserably failed to verify the certificate at the relevant point of time when the first respondent was in probation and they decided to verify in the year 2002.

8. As rightly submitted by the learned counsel appearing for the first respondent that the petitioner Corporation has not taken any effective steps to examine the school authorities either during the departmental enquiry or before the Labour Court. In the present case, in order to prove that the said certificate obtained by the first respondent is tampered, they have to necessarily examine the school authorities either before the enquiry officer or before the Labour Court and the same is fatal to the case. Thereby, the Labour Court awarded compensation of Rs.2,50,000/- in lieu of reinstatement and backwages, which is quite reasonable, which cannot be interfered with.



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9. Therefore, this Court finds no infirmity or illegality in the award passed by the Labour Court and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition is dismissed. However, the petitioner Corporation is directed to pay the compensation of Rs.2,50,000/- as awarded by the second respondent/Labour Court with 6% interest per annum, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

12.09.2023

Index : Yes (or) No

Neutral Citation Case : Yes (or) No

Speaking Order : Yes (or) No

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To

The Presiding Officer,
Labour Court,
Coimbatore.



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M.DHANDAPANI,J.,

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