



W.P.No.22489 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.06.2023

CORAM:

THE HONOURABLE Mr.JUSTICE V.LAKSHMINARAYANAN

W.P.No.22489 of 2014

N.Venkatesan

...Petitioner.

Vs.

1.The Presiding Officer,
Addl.Labour Court, Vellore,
Vellore District.

2.The General Manager,
Tamil Nadu State Transport,
Corporation (Villupuram) Ltd.,
Vellore Division – II,
Rangapuram, Vellore – 600 009.

...Respondents.

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue writ of certiorarified mandamus, after calling for the records pertaining to the award dated 08.12.2009 in I.D.No.308/2002 passed by the 1st respondent in so far as depriving the petitioner 75% backwages and other attendant benefits, quash the same and consequently direct the 2nd respondent to pay the petitioner 75% backwages and other attendant benefits from the dismissal to the date of reinstatement, award costs.



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For Petitioner : Ms.V.Porkodi
for M/s.R.Krishnaswamy
For Respondents :
For R1 : Court
For R2 : Mrs.S.Pavithra

ORDER

This writ petition challenges the award of the Labour Court in I.D.No.308/2002, insofar as it denies 75 % of the backwages to the workman. The Labour Court vide its order dated 08.12.2009 had come to a conclusion that the enquiry officer appointed by the management had acted in capricious manner and had come to a conclusion that the workman was responsible for the accident. It also held that the evidence on record is totally insufficient to hold the charges against the petitioner as proved. Therefore, it passed an award setting aside the order of termination dated 19.03.2002.

2. However, when it came to the question of backwages, without assigning any reason, it reduced the amount of backwages to 25 %. Mrs.V.Porkodi representing M/s.R.Krishnaswamy, learned counsel for the petitioner would state that there is no reason that has been given in the award of the Labour Court for the purpose of reducing the backwages to 25 %.



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3. The position of Law has been stated by the Supreme Court in

Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya and Ors. dated 12.08.2013 in C.A.No.6767 of 2013 in paragraph No.33 of the said judgment, the Supreme Court was pleased to hold that in cases of wrongful termination, reinstatement with continuity of service and backwages is the normal rule.

4. The said authority further holds, while deciding the issue of backwages, the adjudicating authority or court may consider the length of service, the nature of misconduct if any found proved against the employee and the financial conditions of employer and similar factors.

5. Mr.Ashwin, learned Counsel for the respondent would submit that there is no previous record of the workman but in this accident, as many as seven persons had died and the Motor Accidents Claims Tribunal had fixed the responsibility on the corporation to compensate the same. These evidences have not been let in before the Labour Court and therefore, I am unable to come to a conclusion that the workman was responsible for the said accident. This is more so when the Labour Court has appreciated the



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evidence and has come to a conclusion that the management has not proved the charges levelled against the workman and that the workman was responsible for the accident. The workman will be entitled to full backwages instead of 25 % alone.

6. In light of the above, this writ petition stands allowed. No Costs.

16.06.2023
(1/2)

nst

Index : Yes/No
Speaking : Yes/No
Neutral Citation Case : Yes/No

To:

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V.LAKSHMINARAYANAN,J
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