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W.A. Nos.3357 of 2019 and 285 of 2021 and W.P. No.18998 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.08.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. Nos.3357 of 2019, W.A. No.285 of 2021 and W.P. No.18998 of 2020

C.M.P. Nos.21555 of 2019, 23557 of 2020 and 1173 of 2021

The Management
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.

Villupuram

represented by the Deputy Manager
of 2019

Appellant in W.A. No.3357

The Management
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.

Villupuram

represented by the General Manager
2021

Appellant in W.A. No.285 of

The General Manager
Tamil Nadu State Transport Corporation Ltd.
Villupuram Division
Villupuram
of 2020

Petitioner in W.P. No.18998

v

1 S. Haridoss
and

R1 in W.A.Nos.3357 of 2019

respondent

285 of 2021 and sole

in W.P.No.18998 of 2020

2 The Presiding Officer
Labour Court, Cuddalore

R2 in both writ appeals



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Prayer in W.A. No.3357 of 2019:

WEB COPY Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 09.10.2018 passed in W.M.P. No.7845 of 2018 in W.P. No.28682 of 2017.

Prayer in W.A. No.285 of 2021:

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 21.12.2018 passed in W.P. No.28682 of 2017.

Prayer in W.P. No.18998 of 2020:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari to call for the records relating to the order dated 04.12.2019 in Claim Petition No.24 of 2017 on the file of the Presiding Officer, Labour Court, Cuddalore, and to quash the same.

For appellant in
W.A. Nos.3357 of 2019 &
285 of 2021 &
petitioner in
W.P. No.18998 of 2020

Mr. M. Aswin

For R1 in
both writ appeals and
sole respondent in
writ petition

Mr. D. Ashok Kumar

R2 in both
writ appeals

Court

COMMON JUDGMENT

(delivered by S. VAIDYANATHAN, J.)

For the sake of convenience and clarity, the parties in this batch of cases will be adverted to as the Corporation, workman and Labour Court.



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2 The workman, who joined the services of the Corporation on 10.10.1997 as a Driver, underwent a spinal cord surgery at Apollo Hospitals, Chennai, on 03.12.2009 and eventually, he became unfit to drive bus. Hence, the Corporation deprived him of employment which resulted in he raising an industrial dispute in I.D. No.3 of 2016 before the Labour Court.

3 According to the Corporation, the workman absented himself continuously, due to which, a charge memo dated 15.06.2015 was issued to him, suppressing which, he filed the said industrial dispute in December 2015, which was taken up on file as I.D. No.3 of 2016 by the Labour Court, which passed an award on 19.07.2017, directing the Corporation to give light job with continuity of service and backwages.

4 It is the case of the Corporation that the plea to provide a light work as per Section 47 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for brevity “the Disabilities Act”) was not at all taken by the workman before the Labour Court.



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of the workman and directed the Corporation to reinstate him with continuity of service and backwages and also to provide him light work, as recommended by the Medical Board, the Management filed W.P. No.28682 of 2017 challenging the said award of the Labour Court.

6 In the said writ petition, in the miscellaneous petition being W.M.P.No.7845 of 2018 filed by the workman, the Single Bench, *vide* order dated 09.10.2018, directed payment of wages under Section 17-B of the Industrial Disputes Act, 1947, challenging which, the Management filed W.A. No.3357 of 2019.

7 Meanwhile, on 21.12.2018, final orders were passed in W.P.No.28682 of 2017 upholding the award of the Labour Court ordering reinstatement in service with a direction to provide light work to the workman, besides awarding continuity of service and backwages. The Single Bench further directed that the workman's period of disengagement should not be treated as break in service and that he is entitled to get all benefits for the said period.

8 Aggrieved, the Corporation filed W.A. No.285 of 2021, during the pendency of which, the Corporation addressed a letter dated



23.05.2019 to the workman offering him an alternative work in terms of Section 47 of the Disabilities Act, pursuant to which, the workman joined duty on 07.06.2019.

9 Further, during the pendency of the industrial dispute, the workman approached the Labour Court by filing a computation petition being C.P. No.24 of 2017 and the Labour Court, on 04.12.2019, granted the relief and computed the amount payable to the workman as Rs.7,53,003 for the period between 21.04.2015 and 19.07.2017, challenging which, the Corporation filed W.P. No.18998 of 2020.

10 The contention of the Corporation that the workman did not seek alternative job before the Labour Court does not cut ice with us, for, in the industrial dispute, the workman who was examined as W.W.1, in his evidence, has stated that on 24.01.2015, he met the Branch Manager and requested him to give him light job, for which, it was replied that without orders from the Head Office, alternative job could not be given. The Labour Court has rendered a finding of fact that the Corporation has not established that the workman voluntarily refused to come to work on 21.04.2015. The Corporation also has stated that recommendation was made by the Medical Board on 13.11.2013 to give light job to the



workman. It was further brought to the notice of the Court that prior to the said recommendation of the Medical Board, the workman was given light job of filling of diesel and he was working as Diesel Filling Operator from 18.02.2010 at Tindivanam Branch.

11 We have gone through the pleadings before us and the disability certificate dated 20.10.2012, apart from the report of the Medical Board dated 23.10.2013. Since the Labour Court has rendered a finding of fact and the workman was found medically unfit, due to which, the Corporation had provided a light job to him and he had also joined work on 07.06.2019 and he has also filed an affidavit today stating that he is giving up backwages for the period 21.04.2015 to 04.12.2019, we are of the view that the finding of fact given by the Labour Court need not be interfered with by this Court in exercise of extraordinary powers vested under the Constitution of India.

12 Since the workman is in service, except the backwages which he has given up, he would be entitled to all other benefits in terms of the award of the Labour Court. It is made clear that the period during which the workman was not in service could be taken into account as continuous service and the share of Provident Fund contribution of the Corporation



shall be remitted by the Corporation and if the workman wants to avail of the benefit of Provident Fund and pension, it is open to him to remit his share of 10%. Further, the workman is entitled to reinstatement with continuity of service and other benefits, except backwages, which he has given up for the period 21.04.2015 to 04.12.2019.

13 In view of the foregoing discussion:

- W.A. No.285 of 2021 filed challenging the order passed by the Single Bench in W.P. No.28682 of 2017 which was filed challenging the award dated 19.07.2017 passed by the Labour Court in I.D. No.3 of 2016, is disposed of;
- in view of the judgment passed in W.A. No.285 of 2021, W.A.No.3357 of 2019 filed against the order passed by the Single Bench granting wages under Section 17-B of the Industrial Disputes Act, is closed as having become infructuous; and
- W.P. No.18998 of 2020 filed as against the order dated 04.12.2019 passed in C.P. No.24 of 2017, is closed as no further adjudication is required, in view of the workman giving up backwages by way of filing an affidavit.

Costs made easy. Connected C.M.Ps. stand closed.

(S.V.N., J.) (K.R.S., J.)
14.08.202



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To
The Presiding Officer
Labour Court
Cuddalore



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S. VAIDYANATHAN, J.

and

K. RAJASEKAR, J.

cad

Common judgment in

W.A. Nos.3357 of 2019 & 285 of 2021

and

W.P. No.18998 of 2020

14.08.2023