



W.P.No.23989 of 2019
and W.M.P.No.23841 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

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and W.M.P.No.23841 of 2019

The Managing Director,
M/s.Tamil Nadu State Corporation,
Uppalam Depot, Dr.Ambedkar Salai,
Uppalam, Puducherry.

... Petitioner

Vs.

E.Gunasekaran

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the orders dated 27.11.2017 passed by the Industrial Tribunal Cum Labour Court, Puducherry in I.D.No.29/2016 and quash the same.

For Petitioner : Ms.S.Pavithra

For Respondent : Mr.R.Sreedhar



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ORDER

The Respondent E.Gunasekaran was appointed as a Conductor on 06.07.1987 and his services were regularised with effect from 01.07.1989. Since he absented himself from attending duty from 05.10.2012 to 14.10.2012 without any prior intimation, a show cause notice was issued to him and after getting explanation from him, a departmental enquiry was initiated. The Enquiry Officer in his report held that the charges against the respondent were proved. Thereafter, a second show cause notice was issued by the Disciplinary Authority and he was terminated from service on 21.02.2015. The Management thereafter, filed an Approval Petition in A.P.No.34/2015 before the Special Deputy Commissioner of Labour, Chennai and the same was dismissed on 03.03.2017.

2. In the meanwhile, since the conciliation failed, the Government of Tamilnadu vide G.O.Rt.No.111/AIL/LAB/T/2016 dated 05.12.2016 referred the matter for adjudication by the Industrial Tribunal



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Cum Labour Court, Puducherry and the reference is extracted hereunder :

"i. Whether the dispute raised by Thiru.E.Gunasekaran, Villupuram District against the Management of M/s.Tamil Nadu State Corporation, Puducherry over his non-employment is justified? If justified, what relief he is entitled to ?"

The Presiding Officer, Labour Court, after analysing the oral / documentary evidence adduced on both sides held that the termination of service of the respondent by the petitioner Management is illegal and directed the petitioner Management to reinstate the respondent into service within one month from the date of the order and further directed the petitioner Management to pay 50% backwages from the date of termination till the date of reinstatement with continuity of service and other attendant benefits. Aggrieved over the same, the present writ petition is filed.

3. Ms.S.Pavithra, learned counsel for the writ petitioner would contend that the respondent absented himself from attending duty from 05.10.2012 onwards and that the Labour Court had committed an error in



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passing an Award in favour of the respondent.

4. Per Contra, Mr.R.Sreedhar, learned counsel for the respondent contended that the Presiding Officer had passed a well reasoned order after analysing all aspects of the case and therefore, no interference is warranted.

5. It is seen from the records that the respondent absented himself from attending duty for about 10 days from 05.10.2012 to 14.10.2012. The contention of the respondent was that he was unable to attend duty on account of his ill-health and that subsequently, he was not permitted to join duty by the Management. He had also submitted a medical certificate and a letter dated 02.03.2015 requesting the Management to reconsider his termination order and also to allot him work. The Management did not send any reply to the respondent. It is also seen from the records that the Approval Petition in A.P.No.34/2015 filed before the Special Deputy Commissioner of Labour, Chennai was dismissed on the ground that the domestic enquiry was not conducted



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fairly and in accordance with principles of natural justice. The said order has not been challenged by the Management. In the circumstances, the observation of the Labour Court that the order of termination of the respondent by the petitioner Management is illegal, is perfectly in order and I do not see any reason to interfere with the same.

6. Accordingly, this Writ Petition is dismissed as devoid of merits. The orders dated 27.11.2017 in I.D.No.29/2016 passed by the Industrial Tribunal Cum Labour Court, Puducherry, is confirmed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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mtl

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