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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

REV.APLW(MD)No. 217 of 2023

in

W.P.(MD)No. 21335 of 2015

and

W.M.P(MD)No. 4991 of 2010

1. The Assistant General Manager (Works),
State Express Transport Corporation Limited,
(Tamil Nadu),
Trichy.

2. The Managing Director,
State Express Transport Corporation,
(Chennai),
Anna Salai, Chennai.

... Petitioners

VS.

1. K.Jegadeesan

2. The Presiding Officer,
Labour Court,
Trichy.

... Respondents



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PRAYER: Review Application Writ filed under Section 47 Rule 1 & r/w 114 CPC, to review the order, dated 01.12.2022 made in W.P(MD)No.4991 of 2010.

For Petitioners : Mr.S.C.Herold Singh
For R-1 : Mr.R.G.Shankar Ganesh, for R-1
R-2 : Labour Court

ORDER

This Review Application has been filed against the Order, dated 15.11.2022 made in W.P(MD)No.21335 of 2015.

2. Heard Mr.S.C.Herold Singh, the Learned Counsel appearing for the Petitioners, Mr.R.G.Shankar Ganesh, the Learned Counsel appearing for the 1st respondent and perused the material documents available on record.

3. The contention of the review applicants is that the writ petitioner was in service from 1986 onwards and in the year 1996 he was medically invalidated. Hence, his service was terminated and the writ petitioner has



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received the entire monetary benefits i.e., applicable for the said service. The writ petitioner subsequently challenged the medical invalidation. Thereafter, the review applicant and the writ petitioner have entered into an agreement under Section 18(1) of the Industrial Disputes Act and the writ petitioner was taken into service as fresh entrant in the year 1996. Even though, the petitioner was taken into service, again the petitioner did not attend the duty properly. Hence, he was terminated from service on 29.06.2001. However, the writ petitioner had not challenged the dismissal from service order immediately, but had challenged only in the year 2008. After analyzing the evidence, the Labour Court held the termination as illegal, but the Labour Court has not granted any consequential benefits. Hence, this Court has considered the same and directed the review applicant to modify the punishment as Compulsory Retirement and grant 50% of the backwages, from the date of dismissal and granted service benefits. Aggrieved by the same, this review application is filed.

4. The specific contention of the Corporation is that when the writ petitioner was admitted as fresh entrant into service, he has completed only three



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years, subsequently, he was dismissed from service on 19.09.2001. Hence the writ petitioner is not entitled to any backwages under the principle of 'No work and No pay' and granting of backwages from the date of dismissal is error apparent on the face of record, hence the impugned order ought to be reviewed. ought to have taken into account when the writ petitioner was not served under the principles of.

5. Considering the facts of the case, this Court is of the considered opinion that the review application ought to be entertained. The writ petitioner is not entitled to backwages under the principles of 'No work and No pay'. Further the writ petitioner is entitled to 80% of the continuity of service since the writ petitioner had challenged the dismissal order after a lapse of seven years. Therefore, this Court is allowing the review application and modify the order and the same is as follows:

- (i). The punishment of dismissal from service is modified as Compulsory Retirement.



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(ii). The writ petitioner is entitled to continuity of service for the period from 08.07.1996 (the date of appointment as fresh entrant) until superannuation, i.e., from 20.05.2009 and for this period the writ petitioner is entitled to continuity of service for 80% only,

(iii) The Review applicant/Corporation shall calculate the monetary benefits for the 80% of continuity of the service and pay all the monetary benefits to the writ petitioner.

(iii) The said exercise shall be completed within a period of Eight weeks from the date of receipt of a copy of the Order.

6. With these directions, this Review Application is Allowed in above terms. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
NCC : Yes / No

20.12.2023
[1/2]

KSA

To
The Presiding Officer,
Labour Court,
Trichy.



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S.SRIMATHY, J

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