



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

W.P(MD)No.4096 of 2016:

The Management,
Represented by its General Manager (Operation),
Tamil Nadu State Transport Corporation
(Madurai Division) Ltd., Madurai-10.
(Now known as TNSTC (Madurai) Ltd.,
Madurai – 625 016).

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Madurai – 625 020.

2.R.Chandran

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records on the file of the 1st respondent in I.D.No.42/2013 dated 22.12.2014, quash the same.

For Petitioner : Mr.J.Senthil Kumariah

For R2 : M/s.G.Kavitha



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

WEB COPY

W.P(MD)No.18812 of 2018:

R.Chandran

... Petitioner

Vs.

1.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Madurai Region,
Byepass Road, Madurai.

2.The Administrator,
The Tamil Nadu State Transport
Corporation Provident Fund Trust,
Thirvalluvar Illam, Pallavan Salai,
Chennai – 600 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to settle the petitioner's retirement benefits including Provident Fund, Gratuity, IRT Share amount, Earned Leave Wages, Commutation of Pension and monthly pension payable to him with reasonable rate of interest within the time that may be stipulated by this Court.

For Petitioner : M/s.G.Kavitha

For R1 : Mr.J.Senthil Kumariah
Standing Counsel

For R2 : Mr.S.C.Herold Singh



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

COMMON ORDER

W.P(MD)No.4096 of 2016 is filed by the management challenging an I.D order passed by the Labour Court in I.D.No.42 of 2013, dated 22.12.2014.

2. The employee in the said writ petition has filed W.P(MD)No.18812 of 2018 and the same was allowed vide order, dated 29.08.2018. Aggrieved over the same, review petition in Rev.Aplw.(MD)No.161 of 2019 was filed by the Management Corporation and the said review was allowed vide order, dated 18.02.2020. Subsequently, W.P.(MD)No.18812 of 2018 was restored to file. Since both the writ petitions are arising out of the same I.D order, both are taken together for final hearing.

3. The allegation against the employee is that the employee had failed to collect ticket fare for the amount of Rs.1/- (One Rupee only) from the passenger travelling from Simmakal to Goripalayam nor issued any ticket.



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

Likewise, the employee has not collected the fair amount of Rs.3.25/- (Three Rupees Twenty Five Paise only) from a passenger who travelled from Kappalur to Telegraph Office and he has not issued any ticket to the passenger, thereby Corporation has incurred loss of Rs.4.25/- (Four Rupees Twenty Five Paise only). Moreover, the employee had started the first trip at 5.55 a.m. instead of the schedule at 5.00 a.m., whereby delay of 55 minutes had occurred and had caused loss to the Transport Corporation. Based on the basic report of the Checking Inspector, the Management Corporation placed the employee under suspension from 06.03.1998 to 10.03.1998, pending enquiry. Thereafter, a charge memo dated 03.04.1998 was issued. The enquiry officer has submitted his findings on 31.08.1998 by holding the charges leveled are proved. Thereafter, the Management Corporation after perusing the past records, has dismissed the employee from service vide order, dated 15.02.1999. The employee has committed misappropriation for four times and was punished for the said charges and he has not changed his attitude. Hence, the management was forced to pass the dismissal order. Therefore, the management prayed to confirm the dismissal order and dismiss the I.D order passed by the Labour Court.



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

WEB COPY

4. The learned counsel appearing for the employee submitted that already the I.D order was confirmed. However, it was restored because of allowing the review application. He further submitted that the employee is without any salary and has not received any monetary benefits. Therefore, prayed to reinstate the petitioner with backwages.

5. After perusing the order passed by the Labour Court, this Court is of the considered opinion that a detailed and elaborate order was passed against the allegations and the Labour Court has rightly come to the conclusion that the petitioner ought to be reinstated. However, the employee is not entitled for continuity of service for certain period and not entitled to backwages. Pending this writ petition, the employee was reinstated on 07.11.2013. He has attained superannuation and retired from service. This Court is confirming the order of the Labour Court. The writ petition filed by the management i.e., W.P(MD)No. 4096 of 2016 is dismissed.

6. As far as W.P(MD)No.18812 of 2018 is concerned, the employee is entitled to reinstatement and the management corporation has already reinstated



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

the employee. The employee is not entitled to continuity of service for the period from 16.02.1999 to 21.01.2007 and from 17.04.2007 to 06.11.2013 and this period is excluded. For the rest of the period, the employee is entitled to continuity of service. The petitioner is not entitled to backwages for the said period from 16.02.1999 to 21.01.2007 and from 17.04.2007 to 06.11.2013. The petitioner was reinstated in the year 2013 and has served until 2018. For this period, the petitioner is entitled to all benefits. The petitioner is entitled to terminal benefits by excluding the period from 16.02.1999 to 21.01.2007 and from 17.04.2007 to 06.11.2013. The same shall be paid within a period of twelve (12) weeks from the date of receipt of a copy of this order. If the management is not paying it within twelve (12) weeks, the same shall carry interest at the rate of 8%. With this direction, this writ petition is disposed of.

7. W.P(MD)No.4096 of 2016 is dismissed and W.P(MD)No.18812 of 2018 is disposed of. No costs.

06.02.2023

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



WEB COPY



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

To

- 1.The Presiding Officer,
Labour Court, Madurai – 625 020.

- 1.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd.,
Madurai Region,
Byepass Road, Madurai.



WEB COPY



W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

S.SRIMATHY, J.

gbg

W.P.(MD).Nos.4096 of 2016 & 18812 of 2018

06.02.2023