



W.P.(MD).Nos.18287 of 2017 and 12908 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).Nos.18287 of 2017 and 12908 of 2019
and
W.M.P.(MD).Nos.14740 of 2017 and 9608 of 2019**

W.P.(MD).No.18287 of 2017:

The Management,
Tamil Nadu State Transport
Corporation (Madurai) Limited,
Virudhunagar Region, Madurai Road,
Virudhunagar.

... Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
O/o. Commissioner of Labour,
Teynampet,
Chennai – 600 006.

2.T.Karthick

... 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 of the first respondent in his proceeding in Approval Petition in A.P.No.294 of 2013 dated 15.02.2017 and quash the same.



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For Petitioner : Mr.J.Senthil Kumaraiah
For R-1 : Mr.M.Lingadurai,
Special Government Pleader.
For R-2 : Mr.G.M.Xavier

W.P.(MD).No.12908 of 2019:

T.Karthick

... Petitioner

Vs.

The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Viruthunagar Region,
Madurai Road,
Viruthunagar District.

... Respondent

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 reinstate the petitioner with continuity of service, backwages and all other attendant benefits as per the order dated 15.02.2017 of the Special Deputy Commissioner of Labour, Chennai passed U/S 33(2) (b) of I.D.Act in Approval Application A.P.No.294 of 2013.



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For Petitioner : Mr. G.M.Xavier

For Respondent : Mr.J.Senthil Kumaraiah,
Standing Counsel.

COMMON ORDER

The Writ Petition in W.P.(MD)No.18287 of 2017 is filed by the petitioner Corporation to quash the Approval Petition filed in A.P.No.294 of 2013 dated 15.02.2017.

2. The second respondent/employee has filed a Writ Petition in W.P.(MD) No.12908 of 2019 for a direction to implement the orders passed by the Special Deputy Commissioner of Labour and reinstate the second respondent with continuity of service and all other attendant benefits as per the order dated 15.02.2017 in Approval Application filed in A.P.No.294 of 2013.

3. The second respondent, namely T.Karthick was an employee and he was appointed as non ITI Helper Trainee in the petitioner Corporation. The



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petitioner Corporation had filed a counter before the authorities stating that the said Karthick, was not allotted any work from January 2013 onwards. On 01.02.2013, the said Karthick has called the petitioner Corporation over phone and informed that he could not come to work on 01.02.2013 because of his family circumstances. Thereafter as and when he was not able to attend the work, he called over phone and intimated the reasons for not accepting the work. Since for the past one month that is from January 2013 to 08.03.2013, the said Karthick was not attending the work. Hence, on 08.03.2013, the petitioner Corporation has issued a show cause notice. The departmental proceeding was conducted after giving sufficient opportunity to the delinquent. Subsequently, the second show cause notice dated 03.07.2013 was issued proposing the punishment of dismissal, but the employee did not submit any explanation. Since the second respondent was absented for more than 10 days that is from 01.02.2013 and continuously absented till 07.10.2013, the proposed punishment was confirmed by dismissing the second respondent from service on 08.10.2013. After the said dismissal order, the petitioner Corporation has submitted the papers before the appropriate authority for approval in Approval Petition No.294 of 2013. After considering the approval petition, the first



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respondent has rejected the approval petition and directed the petitioner Corporation to reinstate the second respondent with continuity of service and backwages. Aggrieved over the same, the present Writ Petitions are filed by the Management.

4. In the order of the first respondent, it is seen that the authority has verified the records and has held that the petitioner Corporation has given sufficient opportunity and there is no violation of principles of natural justice. As far as the merits of the case is concerned, the authority has held that the allegations against the second respondent is proved. However, the authority has come to the conclusion that the punishment granted to the second respondent is on the higher side. Therefore, the authority had set aside the order and declined the approval and directed the petitioner Corporation to reinstate the second respondent with consequential benefits of continuity of service and backwages.

5. After hearing the rival submissions and after perusing the records, this Court is of the considered opinion that the authority having held that there is no violation of principles of natural justice and having held that the allegations



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against the second respondent is proved, the authority ought not to have quashed the punishment. At the same time, the authority has right to hold that the punishment is on the higher side, but ought to have remitted the case to the Corporation to modify the punishment.

6. It is seen from the records that the second respondent is only 34 years of age. Hence, this Court is inclined to modify the punishment. Hence, the following orders are passed:

(i) The petitioner Corporation is directed to reinstate the second respondent/employee forthwith.

(ii) The respondents shall impose a punishment of stoppage of increment for a period of one year without cumulative effect.

(iii) The second respondent is entitled to continuity of service.

(iv) However, the second respondent is not entitled to backwages from 08.10.2013 until today i.e. 07.06.2023.



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WEB COPY 7. With the above direction, the Writ Petitions are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

07.06.2023

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

Note: Issue Order Copy on 07.06.2023.

To

- 1.The Special Deputy Commissioner of Labour,
O/o. Commissioner of Labour,
Teynampet,
Chennai – 600 006.
- 2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Viruthunagar Region,
Madurai Road,
Viruthunagar District.



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S.SRIMATHY, J.

Nsr

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