



W.P.No.27214 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2024

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THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.27214 of 2019 and
W.M.P.No.26612 of 2019

1. The Management by its General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Limited
Vellore Region, Rangapuram,
Vellore 632 009.
2. The Managing Director,
Tamil Nadu State Transport Corporation (Villupuram) Limited
Head Office, Vazhutha Reddy,
Villupuram 605602. ...Petitioners

Vs.

Mr.G.Krishnamurthy

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari, calling for the records relating to the order dated 23.05.2018 passed by the Principal Labour Court, Vellore in I.D.No.32 of 2017 and to quash the same.

For Petitioners : Ms.S.Pavithra



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For Respondent : NA

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ORDER

The challenge in the writ petition is to an award dated 24.10.2017 passed by the Labour Court directing the petitioner to treat the respondent as if in service with all attendant benefits and continuity of service till his age of superannuation.

2. The respondent joined the service of the petitioner as a driver in the year 1996. As the respondent caused a fatal accident in the year 2015, disciplinary proceedings were initiated against him and after due enquiry, the respondent was removed from service vide order dated 06.09.2016. The respondent raised the dispute challenging the said termination order and the same was taken on file in I.D.No.32 of 2017. The Labour Court as an erroneous view that the respondent had attained superannuation in February 2017, held that the relief of reinstatement became infructuous and directed the petitioner to treat the respondent in service with all attendant benefits and continuity of service till the age of his superannuation. The Labour Court declined the relief of back wages. Aggrieved by the award of the Labour



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Court, the respondent filed a writ petition in W.P.No.676 of 2019. This Court vide order dated 28.01.2019 held as follows:

“8. On a perusal of the records, it is seen that there is an error apparent in stating the date of superannuation of the petitioner in the impugned order of the 1st respondent, since it is seen that the petitioner is admittedly due to retire on 28.02.2019 and hence, the findings of the 1st Respondent in the impugned order in Paragraph 14 with regard to the date of superannuation is modified to the effect that the petitioner is due to attain the age of the superannuation on 28.02.2019 and consequently, he is entitled for reinstatement into service till 28.02.2019 and he is also entitled for other consequential attendant benefits till such date. To that extent, the impugned order is modified, however, without prejudice to the rights of the Respondent Corporation to challenge the law in respect of other claims of the Petitioner. In other words, the impugned order relating to dismissal of claim for reinstatement, in view of the aforesaid inadvertent error crept in stating the date of superannuation is set aside, and the other claim of the relating to back wages, which was dismissed by the 1st Respondent, is confirmed”.

3. As the petitioner was granted the right to challenge the law with respect to other claims in the above writ petition, the present writ petition is filed. There is no dispute that the award as regards back wages was confirmed and so it is not agitated here. The question is whether the Labour Court was justified in passing the award treating the respondent in service for monetary benefits alone, in lieu of reinstatement.



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4. In my view, the reasoning of the Labour Court that the Enquiry Officer ought to have considered the evidence of the conductor who stated that there was no overt act by the respondent cannot be faulted as admittedly, the Conductor was an eye-witness to the accident. Moreover, the Enquiry Officer as rightly found by the Labour Court completely focused on the evidence of one Arasakumar, who was not an eyewitness and that too without assigning any reasons for preferring his evidence over the conductor's evidence, who was an eye witness.

5. In my view there is no infirmity in the factual findings of the Labour Court and therefore I find no justifiable reasons to interfere with the same. I find that the Labour Court has appreciated the evidence in proper manner and therefore there is no perversity in the findings of the Labour Court. The Writ Petition is dismissed. Consequently, connected miscellaneous petition is also closed. No costs.

24.01.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No



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N.MALA,J.

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