



WEB COPY



W.A.No.2890 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2024

CORAM:

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL**

**W.A.No.2890 of 2023
and C.M.P.No.24039 of 2023**

Prasath Transport,
No.43, Thiruvalluvar Nagar Road,
Katpadi,Vellore

... Appellant

Vs

1. A. Kotteswaran

2. The Principal Labour Court,
Vellore District.

... Respondents

PRAYER:Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 26.07.2023 passed by the learned Judge in W.P.No.7600 of 2011.

For Appellant : Mr.P.Chandrasekar
For R-1 : Mr.S.T.Varadarajalu

* R2- Court



W.A.No.2890 of 2023

J U D G M E N T

(Judgment of the Court made by **J.NISHA BANU, J.**)

This Writ Appeal is preferred against the order made in W.P.No.7600 of 2011 dated 26.07.2023, wherein this Court has disposed of the writ petition filed by the appellant and directed the appellant Transport Corporation to pay the backwages entitled for the first respondent as fixed by the Labour Court.

2. The brief facts of the case is that the appellant herein has filed a writ petition in W.P.No.7600 of 2011 to call for the records of the second respondent herein with regard to I.D.No.137 of 2009 dated 08.02.2011, which was filed by the first respondent seeking for his reinstatement with continuity of service, back wages and all other attendant benefits. The Tribunal has rendered its findings by holding that the first respondent is entitled for such benefits from 06.01.2008. Aggrieved against the said Award of the Labour Court, the appellant preferred a writ petition in W.P.No.7600 of 2011, which subsequently came to be disposed of in favour of the first respondent.



W.A.No.2890 of 2023

3. The case of the appellant- Transport Corporation is that the first respondent was employed as a Driver on a daily wage basis. While so, he met with an accident on July 2007 and thereafter, he left the post of driver, after which, the first respondent was terminated from service on 07.10.2004 by the appellant Transport Corporation. In such circumstances, the first respondent raised an Industrial Dispute before the Labour Court and based upon the failure report given by the Labour Court on 16.02.2009, the Labour Court, Vellore took the case on file in I.D.Case No.137 of 2009 under Section 2A(2) of the Industrial Disputes Act, 1947 to reinstate him in service, continuity of service, back wages and all other attendant benefits.

4. Mr.P.Chandrasekar, learned counsel for the appellant submitted that during the pendency of the proceedings in I.D.Case No.137 of 2009 before the Labour Court, the first respondent was gainfully employed in Government Transport Corporation. Moreover, when the first respondent met with an accident on July 2007, he left the place of occurrence without giving proper intimation to the appellant Transport Corporation. Therefore, considering the lethargic attitude of the first respondent, he was terminated



W.A.No.2890 of 2023

from service, but by way of raising an Industrial Dispute before the Labour Court, the first respondent was ordered reinstatement, continuity of service and full back wages, which is perverse in nature.

5. Moreover, it is the contention of the learned counsel for the appellant that the first respondent was not in continuous service for a period of 240 days in a year and he was gainfully employed as a driver. It is the grievance of the learned counsel for the appellant that without considering the above facts, this Court has allowed the writ petition, thereby granting a sum of Rs.1,12,500/- (for 25 months i.e from 06.10.2008 to 19.11.2010) as back wages to the first respondent, which is liable to be set aside. Hence, the learned counsel prayed for allowing the appeal.

6. In support of the contentions raised by the learned counsel for the appellant that the first respondent was gainfully employed during the pendency of the proceedings in I.D.Case No.137 of 2009 before the Labour Court, he produced a letter from the office of the District Forest Office, Tirupattur stating that the first respondent has joined duty as Driver on



W.A.No.2890 of 2023

19.11.2010, which fact was not disputed by the first respondent before the Writ Court. Therefore, the learned counsel appearing for the appellant Transport Corporation prayed for setting aside the order of this Court, dated 26.07.2023 thereby allowing the writ appeal.

7. On the other hand, Mr.S.T.Varadarajalu, learned counsel for the first respondent submits that the order of the Writ Court is a well reasoned order and does not invite the interference of this Court and hence, prayed for dismissing the appeal.

8. Heard the learned counsel appearing for either side and perused the materials placed before this Court.

9. Since the learned counsel for the first respondent has not disputed the fact that the first respondent was gainfully employed during the pendency of the proceedings in I.D.Case No.137 of 2009 before the Labour Court in the office of the District Forest Office, Tirupattur as 'Driver' from 19.11.2010, this Court is of the considered opinion that the first respondent



W.A.No.2890 of 2023

is entitled for backwages at the rate of Rs.4,500/- (admitted salary) from the date fixed by the Labour Court i.e. from 06.10.2008 till 19.11.2010, i.e. the date on which the first respondent has admitted to be gainfully employed at the District Forest Office, Tirupattur as Driver, as ordered by the Writ Court and the same does not seek the interference of this Court.

10. Moreover, on perusal of records, it could be seen that the matter is pending from the year 2011 onwards. Therefore, this Court deems it fit to issue directions to the appellant Transport Corporation to disburse the backwages of Rs.1,12,500/- with interest at the rate of 6% payable to the first respondent within a period of six weeks from the date of receipt of a copy of this judgment. With these directions, this Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

(J.N.B.J) (P.D.B.J.)

21.06.2024



W.A.No.2890 of 2023

WEB COPY

sts

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

Neutral citation: Yes/No

To:

The Principal Labour Court,
Vellore District.



WEB COPY



W.A.No.2890 of 2023

J.NISHA BANU, J.

and

P.DHANABAL, J.

sts

Judgment made in
W.A.No.2890 of 2023

Dated:
21.06.2024