



W.A.No.4 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE M.JOTHIRAMAN

W.A.No.4 of 2024
and C.M.P.No.40 of 2024

The General Manager,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Vellore Division to Rangapuram
Vellore – 600 009.

... Appellant

Vs.

1.The Presiding Officer,
Additional Labour Court, Vellore.

2.N.Venkatesan

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 16.06.2023 in W.P.No.22489 of 2014 passed by this Court.

For Appellant : Mrs.S.Pavithra
For R1 : Labour Court
For R2 : Mr.Ajoy Khose



W.A.No.4 of 2024

JUDGMENT

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(Judgment of the Court was made by *M.S.RAMESH, J.*)

On the charges that the workman/second respondent herein, while serving as a Driver in the appellant/Corporation, had driven the vehicle negligently and caused accident, in which 7 persons had died, disciplinary action was initiated. Since the charges were proved, punishment of termination from service was imposed on the second respondent on 19.03.2002.

1.2. When the workman had challenged the order of termination before the Labour Court in I.D.No.308 of 2002, the Labour Court, through its order dated 08.12.2009, had set aside the punishment of termination from service and ordered for his reinstatement, together with 25% of the backwages and continuity of service.

1.3. When the workman had challenged the Award of the Labour Court before this Court in WP.No.22489 of 2014, seeking for the entire backwages, a learned Single Judge, in his order dated 16.06.2023, had placed reliance on the case of '*Deepali Gundu Surwase Vs. Kranti Junior Adhyapak Mahavidyalaya (D.ED.) and others*' reported in '*2013 (10) SCC*



W.A.No.4 of 2024

324' and held that in all cases of wrongful termination, reinstatement with continuity of service and backwages is the normal rule and therefore set aside the Award, insofar as it ordered for 25% backwages and ordered for full payment of backwages. The Corporation had challenged the order of the learned Single Judge in this Intra Court Appeal.

2. The learned counsel for the appellant/Corporation, without addressing the merits of the grounds raised in the appeal, made a sympathetic plea that the Corporation was in severe financial crisis and therefore, sought for lenience of this Court to reduce the backwages.

3. The learned counsel appearing on behalf of the second respondent / workman herein made a fair offer of accepting the backwages at 50%, on the enhancement made by the learned Single Judge.

4. In view of the generous offer made by the second respondent herein, to give up 50% out of the enhanced 75% of the backwages, we deem it appropriate that the provident fund contribution for the period of non-employment, can be notionally calculated as 100% backwages, which



W.A.No.4 of 2024

contribution of both the workman, as well as the Corporation, shall be borne by the Corporation.

5. Accordingly, the order passed in W.P.No.22489 of 2014 dated 16.06.2023, insofar as it enhances the Award of the Labour Court granting 25% of the backwages to 100%, is modified as 50% of the enhanced amount of the backwages i.e., 50% out of 75% of the backwages, apart from 25% of the backwages granted by the Labour Court in its Award passed in I.D.No.308 of 2002 dated 08.12.2009. All other observations and findings made in the order of the learned Single Judge dated 16.06.2023 passed in WP.No.22489 of 2014, as well as in the order of the Labour Court dated 08.12.2009 passed in I.D.No.308 of 2002, shall remain intact.

6. It is needless to mention here that the period of non-employment should be calculated as service period for all purposes, in view of the Award of the Labour Court extending continuity of service. The Corporation shall disburse the arrears of backwages, as ordered by this Court, as expeditiously as possible, in any event, within a period of six (6) weeks from the date of receipt of a copy of this judgment. The Corporation shall



W.A.No.4 of 2024

also send a proposal to the Pensionary Authority for the revised pension, as per the order in this Writ Appeal.

7. With the above directions, the Writ Appeal stands disposed of. No costs. Connected miscellaneous petition is closed.

[M.S.R., J] [M.J.R., J]
22.10.2024

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No

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To

The Presiding Officer,
Additional Labour Court,
Vellore.



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W.A.No.4 of 2024

M.S.RAMESH, J.
and
M.JOTHIRAMAN, J.

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W.A.No.4 of 2024

22.10.2024