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W.A.Nos. 620 & 621 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.06.2024

Pronounced on : 07.08.2024

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

And

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.A.Nos.620 and 621 of 2020

and CMP.Nos.8583, 8584 and 8587 of 2020

The Management

Represented by its General Manager,

Tamil Nadu State Transport Corporation (Salem) Limited

12, Ramakrishna Road

Salem-636 007.

...Appellant

[in both Writ Appeals]

Versus

1. The Presiding Officer

Labour Court, Salem

... 1st respondent in WA.No.620/2020 & 2nd
respondent in WA.No.621/2020

2. P.Raja

... 2nd respondent in WA.No.620/2020 &
1st respondent in WA.No.621/2020

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent,
prays to set aside the order dated 30.08.2019 in W.P.Nos.8997 & 19155 of 2016
passed by this Court.



W.A.Nos. 620 & 621 of 2020

For Petitioner : Mr.Anand Gopalan for Mr.R.Babu
For R2 : Mr.G.Sankaran, Senior Counsel for
Mr.S.Nedunchezian
For R1 : Labour Court

COMMON JUDGMENT

J.NISHA BANU, J.

The above writ appeals are filed by the Management-Transport Corporation as against the common order passed in W.P.Nos.8997 and 19155 of 2016, dated 30.08.2019.

2. The second respondent-driver approached the Labour court in I.D.No.40 of 2013, questioning the factual flaws and the provisions attracting Rule 19(1)(k) of the Standing Orders of the TNSTC, Salem, as the main allegation levelled against him was that he had prevented the Branch Manager from discharging his duties.

3. The Labour court passed the award interfering with the order of dismissal dated 02.08.2010 holding that the charges are not established in its entirety and directed the management to reinstate the workman into service



W.A.Nos. 620 & 621 of 2020

within a period of three months from the date of Award with continuity of service and other monetary benefits with 25% of back wages.

4. Questioning the denial of 75% of backwages, the workman filed W.P.No.19155/2016 and challenging the award, the Management filed W.P.No.8997 of 2016.

5. The learned Single Judge held that since charges are held to be not proved and the management has also not established that the workman is gainfully employed, the Award in respect of depriving of 75% of backwages is bad and therefore, the workman is entitled to reinstatement with full backwages, continuity of service and all other attendant benefits. The learned Single Judge confirmed the findings of the Labour court that the enquiry conducted was not fair and proper.

6. Now the Management has filed the present writ appeals challenging the common order dated 30.08.2019 on the ground that the impugned order passed by the learned Single Judge was without considering the oral evidence



W.A.Nos. 620 & 621 of 2020

WEB COPY

of the management witness who has clearly stated that the workman had entered the room of the Branch Manager and shouted threatening him with dire consequences. The learned counsel for the appellant would further contend that the decision reported in **(2013) 10 SCC 324**, is not applicable to the facts of this case and therefore, applying the said decision, granting the remaining 75% backwages to the workman, is not correct.

7. Per contra, the learned Senior counsel for the 2nd respondent-workman, would submit that the learned Single Judge has carefully perused the records and held that domestic enquiry is bad and charges are held to be not proved. The 2nd respondent had attained superannuation on 31.03.2016 itself; the award was modified by the learned Single Judge as one of reinstatement with full backwages, continuity of service and all other consequential benefits from the date of his dismissal viz., 02.08.2010 and all the benefits upto the date of superannuation to be extended to the workman within 45 days. Further the learned Single Judge observed that management is expected to pay his monthly pension from October 2019 onwards regularly on or before 5th of every month



W.A.Nos. 620 & 621 of 2020

and arrears of pension with interest at the rate of 6% from the date of his superannuation, shall be paid within a period of 45 days from the date of receipt of a copy of this order.

8. The learned Senior counsel would submit that the second respondent has not been given any benefits till date including his PF, Gratuity etc and he has not been given the monthly pension even till date from the date of his superannuation i.e., on 31.03.2016.

9. The learned Senior counsel would argue that for no fault of the second respondent, he was deprived of his legal rights and the Management filed the appeals and dragging on the proceedings without giving single benefit.

10. Heard both sides and perused the records carefully.

11. Before proceeding further, two important aspects required to be noted in the present writ appeal filed by the Stated owned Transport Corporation. Firstly, the charges levelled against the second respondent were frivolous and inquiry was held in gross violation of the rules of natural justice and thereby,



W.A.Nos. 620 & 621 of 2020

the order of dismissal passed by the Management was set aside by the award of the Labour court. The learned Single Judge also confirmed the findings and granted the remaining 75% backwages with modification in respect of award and directed for reinstatement with full backwages, continuity of service and all other consequential benefits from the date of his dismissal viz., 02.08.2010 and that all the benefits upto the date of superannuation to be extended to the workman within 45 days and that the workman would be entitled to pensionary benefits, if he is otherwise entitled to.

12. As far as the above findings and direction of the learned Single Judge, we find that the said findings and directions are passed by applying the principles enunciated by the Honourable Supreme Court in cases where domestic enquiry is held to be bad and the dismissal order made by the management would be invalid. Therefore, the view taken by the learned Single Judge, in the facts and circumstances of the case, cannot be held to be erroneous. Accordingly, the said part of the order is confirmed.



W.A.Nos. 620 & 621 of 2020

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follows:-

13. Secondly, the learned Single Judge pointed out in paragraph 16 as

“... since the workman had already retired from service, the Management is expected to pay his monthly pension from October 2019 onwards regularly on or before 5th of every month and the arrears of pension with interest at the rate of 6% from the date of his superannuation, shall be paid within a period of 45 days from the date of receipt of a copy of this order. It is made clear that if the amount is not released within the time stipulated supra, it will carry interest @ 12% to be recovered from the personal fund of the Officials, responsible for release of the amount to the Workman. It is further directed that the Management shall furnish the name of the Officials with their designation, who failed to release the amount in time to the Registrar General of this Court, within a period of 30 days from the date of expiry of the time mentioned supra, so as to enable him to bring the same to the notice of this court thereafter. “

The above observation, in our considered view, is slightly excessive. Therefore, we find that the said directions need to be interfered as the Management is the State owned Transport Corporation and having the obligation to serve justice



W.A.Nos. 620 & 621 of 2020

and protect legal rights of its employees. Accordingly, the above portion of the impugned order is set aside. What is expected herein is to respect the statute and comply with the direction of this court within the time stipulated and not to promote or maximize the criminal action and recovery proceedings as the same would result in dragging the case further. We hope the appellant understand the tenor of the order and pay the monetary benefits entitled to the second respondent including pension without any further delay.

14. In the result, the writ appeals are partly allowed on the terms stated supra. The appellant-Transport Corporation shall pay the monetary benefits including PF, Gratuity and pension to the second respondent within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

[J.N.B.,J] [P.D.B.,J]
07 .08.2024

Index: Yes/no
Speaking Order: Yes/no
nvsri



W.A.Nos. 620 & 621 of 2020

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To
The General Manager,
Tamil Nadu State Transport Corporation (Salem) Limited
12, Ramakrishna Road
Salem-636 007.

2.The Presiding Officer
Labour Court, Salem



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W.A.Nos. 620 & 621 of 2020

J. NISHA BANU, J,
and
P. DHANABAL, J,

nvsri

Judgment in
W.A.Nos.620 and 621 of 2020

07.08.2024