



WP(MD)No.1037 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.02.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE MUMMINENI SUDHEER KUMAR**

W.P.(MD)No.1037 of 2021

and

W.M.P(MD)No. 898 of 2021

Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Maruthupathy,
Karaikudi,
Through its General Manager

... Petitioner

/vs./

A.Nagakrishnan

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of certiorari calling for the records relating to the award passed by the Labour Court, Madurai, in ID No.113 of 2014 dated 11.02.2016, quash the same.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Mr.H.Elango



WP(MD)No.1037 of 2021

WEB COPY

ORDER

Aggrieved by the award dated 11.02.2016, passed in ID.No.113 of 2014 on the file of the learned Labour Court, Madurai, the petitioner Corporation filed the present writ petition. Through the impugned award, the learned Labour Court ordered reinstatement of the respondent into the service within a period of three months from the date of receipt of the said award with continuity of service but without backwages and other benefits, duly setting aside the order of dismissal dated 09.07.2004. Aggrieved by the said award, the petitioner approached this Court by filing this writ petition.

2. This Court has heard the learned counsel appearing for the petitioner corporation.

3. The reason for the dismissal of the respondent from service is that the respondent herein alleged to have produced a bogus certificate of SSLC for securing the employment as a Driver and after having conducted an enquiry and ascertaining that the so-called SSLC certificate said to have been produced by the respondent herein was found to be bogus, the respondent herein was dismissed from service by passing an order dated 09.07.2004.



WP(MD)No.1037 of 2021

WEB COPY

4. From the perusal of the materials on record, it is noticed that it is the specific case of the respondent that he never produced the SSLC certificate nor claimed SSLC as his qualification for claiming employment as a Driver in the petitioner Corporation. On the other hand, the specific case of the respondent is that he has passed 8th standard examination and possess a requisite driving licence for claiming employment in the petitioner Corporation. But it appears that the petitioner Corporation having conducted an enquiry, decided the matter without considering the contention of the respondent and only proceeded to verify as to whether the so-called SSLC certificate, alleged to have been produced by the petitioner, was genuine or not. On coming to the conclusion that the said SSLC certificate is not a genuine certificate, passed the order of dismissal dated 09.07.2004.

5. The learned Labour Court, having examined this aspect of the matter in detail and also taking into consideration that the said enquiry was initiated at the instance of some third party on a petition submitted to the Special Cell of the Chief Minister, resulting in the dismissal of the petitioner from service,



WP(MD)No.1037 of 2021

came to the conclusion that the entire enquiry is not done in a proper direction, resulting in great prejudice to the petitioner, has been pleased to set aside the dismissal order and ordered reinstatement, however without back wages. The relevant portion from the impugned award passed by the learned Labour Court reads as under:

"It is evident from the records that one M.Murugan of Kottaimedu had sent a petition to the Special cell of Chief Minister alleging that the petitioner had obtained employment by producing bogus certificate, that the said complaint was forwarded to the respondent corporation, and that only on the basis of the said complaint the respondent had initiated the disciplinary proceedings. It is the specific contention of the respondent that they had sent a letter to the Joint Director of Government Examinations, Chennai, for verification of the petitioner's SSLC Certificate and report and that the Joint Director has sent a reply dated 24.09.2023 (available in Ex.M.6 series) stating that the registration No. given in the petitioner's SSLC Certificate was originally allotted to another person and that therefore the petitioner's SSLC certificate was a bogus one and that after the receipt of the said report, they had initiated the proceedings against the petitioner. It is pertinent to note that the petitioner had



WP(MD)No.1037 of 2021

WEB COPY

all along been contending that he has not produced any such SSLC Certificate and that he had only produced the 8th standard school certificate. As already pointed out, it is the specific case of the respondent that the petitioner at the time of his recruitment had only produced the SSLC Certificate to show his educational qualification along with driving licence and community certificate. It is pertinent to mentioned that the respondent has produced the letter dated 13.5.2004 sent by the Metropolitan Transport Corporation, Chennai (available in Ex.M6 series) to the respondent and wherein it is specifically stated that the copy of the educational certificate for having passed 8th standard which was produced by Thiru.N.Nagakrishnan, driver No.51162 has since been traced out and a copy of which is sent along with copy of bio-data furnished by the individual at the time of interview. Though the respondent has produced the bio-data in Ex.M.6 series, they have not chosen to produce the educational certificate produced by the petitioner for having passed 8th standard. It is evident from the records that the petitioner has produced and exhibited the said school certificate before the enquiry officer now available in Ex.M. 7 series to show that he has passed 8th standard in Bharatha Matha Middle School, Vadakkunarippaiyur, Kadaladi Range, Ramnad District. It is also not in dispute that the said School Certificate was also sent for verification to the District Primary School Educational Officer, Ramanathapuram, that the same was



WP(MD)No.1037 of 2021

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6. From the above findings recorded by the Labour Court, it is evident that the application of the respondent for the post of Driver in the petitioner Corporation was in fact forwarded by the then employer of the petitioner i.e., Metropolitan Transport Corporation, through Ex.M.6 and in the said Ex.M.6, it was categorically mentioned that the educational qualification of the respondent was 8th standard and the relevant certificate to that effect was also enclosed to the said application of the respondent and was forwarded to the petitioner herein. As noted by the learned Labour Court, though the petitioner Corporation produced the said application of the respondent as forwarded by the previous employer, has not chosen to enclose the educational certificate produced by the respondent of having passed 8th standard. Thus having taken note of the suppression of the said document by the petitioner Corporation, the learned Labour Court has come to the conclusion that the dismissal order



WP(MD)No.1037 of 2021

passed by the petitioner Corporation is not sustainable. Further, the learned Labour Court has also taken note of the fact that the pass in SSLC is not the requisite qualification and it is also not the case of the petitioner Corporation that it is only basing upon the alleged SSLC certificate produced by the respondent herein, he was appointed as Driver. On the other hand, *de-hors* the said SSLC Certificate also, the respondent is very much qualified to hold the post of Driver in the petitioner Corporation. The learned Labour Court has also taken note of various orders passed by this Court as confirmed by the Hon'ble Division Bench of this Court as well as the Hon'ble Supreme Court under similar circumstances, rather in much worst cases also relief was granted duly setting aside the order of dismissal passed by the petitioner Corporation.

7. Yet another contention raised by the learned counsel for the petitioner on the ground of delay is concerned, the dismissal order was passed by the petitioner Corporation on 09.07.2004 but the same was confirmed by the Commissioner of Labour only on 23.08.2013 and the respondent herein immediately thereafter in the year 2014 approached the learned Labour Court



WP(MD)No.1037 of 2021

WEB COPY

raising a dispute. Therefore, the question of delay in approaching the learned Labour Court does not arise and the said contention is also not sustainable.

8. This Court while entertaining the writ petition by an order dated 22.01.2021, granted interim stay of operation of the impugned award. As already noted above, the impugned award was passed as early as on 11.02.2016 but surprisingly the petitioner Corporation has kept quiet till the year 2021 and filed this writ petition after a lapse of about five(5) years. No reason is coming forth to approach this Court at such a belated stage. Though, the impugned award was in operation for almost about five(5) years, the petitioner Corporation has not chosen to give effect to the impugned award nor paid the wages that are payable to the respondent under Section 17(B) of the Industrial Disputes Act, 1947.

9. In the light of the above, this Court does not find any error or illegality in the order passed by the learned Labour Court warranting interference of this Court in exercise its certiorari jurisdiction. Accordingly, this writ petition is dismissed.



WP(MD)No.1037 of 2021

WEB COPY

10. Taking into consideration the over all circumstances and the fact that the said award was not implemented by the petitioner Corporation for about eight(8) years, this Court is of the considered view that it is a fit case where appropriate orders need be passed in the interest of justice and by exercising the jurisdiction under Article 226 of the Constitution of India.

11. Accordingly, there shall be a direction to the petitioner Corporation to reinstate the petitioner into service forthwith and the petitioner is also permitted to make a representation claiming for wages from the date of the award till the date of reinstatement, duly explaining as to whether the petitioner was gainfully employed during the said period or not. The petitioner Corporation is also further directed to consider the said representation and pass appropriate orders in accordance with law within a period of three months from the date of submission of the representation. As the respondent herein is deprived of the benefit of the impugned award for a period of eight years, any delay on the part of the petitioner Corporation in complying with this order, will be viewed very seriously and the petitioner is



WP(MD)No.1037 of 2021

WEB COPY

cautioned to see this order is implemented without any delay. No costs.

Consequently, connected miscellaneous petition stands closed.

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

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To

1.The Labour Court, Madurai.



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WP(MD)No.1037 of 2021

MUMMINENI SUDHEER KUMAR, J.

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