



W.A.(MD)No.1269 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 31.07.2024

CORAM

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE G.ARUL MURUGAN**

**W.A(MD)No.1269 of 2024
and
C.M.P.(MD)Nos.9785 of 2024**

1.The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
represented by its Managing Director,
Tirunelveli.

2.The General Manager,
The Tamil Nadu State Transport
Corporation (Tirunelveli) Limited,
Tirunelveli Region, Tirunelveli.

... Appellants

vs

A.Manuel Devadoss

...Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 20.02.2023 passed in W.P(MD)No.20053 of 2016.

For Appellants : Mr.K.Ramiah
For Respondent : Mr.A.Rahul



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JUDGMENT

(Judgment of this Court was delivered by **G.ARUL MURUGAN, J.**)

This intra-Court appeal is preferred against the order, dated 20.02.2023 made in W.P.(MD)No.20053 of 2016.

2.The respondent/Writ Petitioner had joined in the services of the appellant Corporation as Driver with effect from 17.09.1993 and had put in 23 years of service. On the charge that he had committed an accident on 24.09.2003 due to negligent driving, departmental proceedings were initiated against him and in the domestic enquiry, the charges having been held proved, the respondent was dismissed from service on 03.01.2004. The order of dismissal was challenged by the respondent before the Labour Court in I.D.No.2 of 2008. By award, dated 21.04.2011, the Labour Court allowed the petition and directed the appellants to reinstate the respondent into service with continuity in service, however, without any back wages.

3.The award of the Labour Court was implemented and the respondent was reinstated into service with effect from 02.01.2012, but



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however, it was the grievance of the respondent that he was not granted continuity of service and other benefits and as such, he had submitted a representation, dated 15.07.2015, which came to be rejected by the order of the appellants, dated 04.08.2015. The claim of the respondent was rejected on the ground that from the date of dismissal, till the date on which, the respondent was reinstated, the same is to be treated as loss of pay and therefore, no benefits could be granted for such period. Challenging the impugned order of rejection, the respondent had preferred the Writ Petition. The Writ Court after considering the fact that in the award passed by the Labour Court, the petition filed by the respondent was allowed and the appellants were directed to reinstate the workman into service with continuity in service and along with all legally entitled benefits, came to the conclusion that the impugned order of rejection is bad and had allowed the Writ Petition and directed the appellants to grant the benefits. Assailing the order of the Writ Court, the appellants are before this Court.

4.The learned Counsel appearing for the appellants argued that the appellants have duly complied with the award passed by the Labour Court by reinstating him into service and when admittedly, the back wages has not



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been granted, the claim made by the Writ Petitioner in respect of increment and the review benefits is not sustainable, which was rightly rejected by the Corporation. The learned Counsel further contended that the respondent is not entitled for any benefits, as he has not been in service during this period and only due to which, the Labour Court has rightly rejected the claim of the employee for back wages. It is his further contention that when admittedly, he was not in service, no review benefits could be granted, as the performance could not be assessed, but however, the learned Judge had erroneously allowed the Writ Petition by directing the Corporation to extend the benefits, which is not in consonance with the award, he contended and sought for interference of this Court.

5.The learned Counsel appearing for the respondent submitted that the award passed by the Labour Court is very clear that even though back wages was denied, the appellants were directed to reinstate the Writ Petitioner into service with continuity in service and other legally entitled benefits. It is his further contention that when the Labour Court had held that the respondent is entitled for continuity in service with other benefits, except back wages, the impugned order of rejection on the ground that he



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was not in service and therefore, he cannot claim any benefits during this period, cannot be sustained, which has been rightly interfered with by the learned Judge, which needs no interference and sought for dismissal of the appeal.

6. Heard the rival submissions and perused the materials available on record.

7. The respondent/Writ Petitioner, who worked as a Driver in the appellant Corporation with effect from 17.09.1993, had put in 23 years of service and had got superannuated. While so, on the charge that he had committed an accident due to negligent driving on 24.09.2003, departmental proceedings were initiated against him. In the domestic enquiry, as the charges were held proved, the respondent was dismissed from service on 03.01.2004. In I.D.No.2 of 2008 preferred by the respondent before the Labour Court, Tirunelveli, challenging the order of removal from service, after elaborate trial, the Labour Court by award, dated 21.04.2011, allowed the petition by setting aside the order of termination and directed the appellants to reinstate the Writ Petitioner into service with continuity in



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service and all other legally entitled benefits, but however, without any back wages.

8. Even though the appellants had complied with the award passed by the Labour Court by reinstating the respondent into service with effect from 02.01.2012, however, he was not granted continuity in service by extending the benefits including increments and second review. In this regard, when the respondent had submitted a representation on 15.07.2015, the same was rejected by the appellants by order, dated 04.08.2015. The claim of the respondent was rejected by the appellants only on the ground that since the respondent was not in service from the date of dismissal to the date of reinstatement and it has been treated as loss of pay, no benefits could be granted during this period and further, since his performance could not be assessed, as he was out of service, the second review could also be not granted.

9. At this juncture, it would be relevant to have a closure look at the award passed by the Labour Court, so as to see what decision has been arrived at. In the award, dated 21.04.2011, the Labour Court had allowed



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the petition filed by the employee by setting aside the order of termination and reinstated the respondent into service with continuity in service with all eligible benefits, but however, the back wages alone have been denied. As such, as per the award, though the claim of back wages has been denied by the Labour Court, the respondent is entitled to be reinstated into service with continuity in service and all other eligible benefits.

10. When the award is patently clear, the stand taken by the appellants that since the respondent had been out of service for the period from 03.01.2004 to 02.09.2013 and therefore, no benefits could be extended to him including second review, cannot be countenanced in view of the award passed by the Labour Court. Since the respondent was out of service for the above period, the Labour Court had rightly denied back wages alone, but however, the respondent was ordered to be reinstated into service with continuity in service including all other eligible benefits. As such, the respondent is necessarily entitled to the other benefits of increments and second review, as it should be construed for all other practical purposes that the respondent had been in service during this period.



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11.The learned Judge, only by taking note of the above aspects, has arrived at a decision that when as per the award of the Labour Court, the respondent had been granted with the benefits of continuity in service along with other eligible benefits, the appellants were directed to extend the benefits of second review and other benefits, which in our considered opinion, does not suffer from any error or infirmity.

12.As such, in view of the above discussions, the order of the learned Judge is sustained and accordingly, the Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.K., J] & [G.A.M., J]
31.07.2024

Internet :Yes/No
Index :Yes/No
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