



W.A.(MD)No.1044 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.06.2024

CORAM

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

**W.A(MD)No.1044 of 2024
and
C.M.P.(MD)No.7628 of 2024**

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

... Appellant

vs

A.Nagakrishnan

...Respondent

**PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, to set aside
the order of this Court dated 27.02.2024 passed in W.P(MD)No.1037 of
2021**

For Appellant : Mr.S.C.Herold Singh



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JUDGMENT

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

The Appellant/State Transport Corporation challenging the impugned order of the Writ Court dismissing the Writ Petition filed against the award passed by the Labour Court, Madurai, in I.D.No.113 of 2014, dated 11.02.2016 in setting aside the order of removal from service passed against the respondent, preferred the above appeal.

2.The respondent was appointed as a Driver in the appellant Transport Corporation in the year 1999 and his service also came to be confirmed on 01.07.2000. The respondent was visited with a show cause notice, dated 31.10.2003, whereby, he was charged that during procuring the appointment, he had produced bogus SSLC certificate and thereby, had cheated the management. An explanation was offered by the respondent on 07.11.2003, but not being satisfied with the reply, the appellant had ordered for domestic enquiry. Pursuant to the domestic enquiry, the appellant had, by order, dated 09.07.2004, dismissed the respondent from service. The



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Petition filed for approval under Section 33(2) of Industrial Disputes Act,, 1947, by the appellant before the Joint Commissioner of Labour, Chennai, was taken in A.P.N.197 of 2004 and by order, dated 23.08.2013, the approval for dismissal was granted. Thereafter, the respondent had raised a dispute before the Labour Officer, Ramanathapuram and, as the appellant was not ready for any conciliation, the Labour Officer had filed a conciliation failure report on 05.02.2014 and therefore, the respondent had raised an industrial dispute, which was taken on file in I.D.No.113 of 2014. By award, dated 11.02.2016, the Labour Court, set aside the dismissal order, dated 09.07.2004 and directed the appellant Corporation to reinstate the respondent into service within a period of three months with continuity of service, but without back wages. Challenging the award of the Labour Court, the appellant had preferred the Writ Petition, which was heard and by order, dated 27.02.2024, the Writ Court dismissed the Writ Petition confirming the award passed by the Labour Court. Assailing the impugned order of the Writ Court, the appellant is before this Court.

3.Heard the learned Counsel for the appellant and perused the materials available on record.



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4.The learned Counsel for the appellant mainly placed his submissions on the ground that when the respondent had submitted a bogus SSLC certificate and had obtained the employment, no leniency could be shown as against the respondent and the impugned order of the Writ Court confirming the award is only on misplaced sympathy. The learned Counsel further submitted that when the respondent had submitted the SSLC certificate, knowing well that it is a bogus certificate, as he was completely aware that he had only completed upto 8th standard.

5.We are not able to accept the arguments advanced by the learned Counsel for the appellant in view of the facts of the present case.

6.The respondent was appointed as a Driver in the appellant Transport Corporation in the year 1999. In fact, the qualification for getting appointment to the post of Driver was only 8th standard and there was no requirement for the respondent to submit any bogus certificate to claim that he has completed SSLC. More over, all along, the respondent had specifically pleaded and contended that he had never submitted any SSLC



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certificate and that he had only studied till 8th standard and have submitted the mark certificate of the School records upto 8th standard only.

7.Before the Labour Court, the application submitted by the respondent, at the time of availing the employment, has been filed and marked as Ex-M6. The Labour Court, after analysing the document in Ex-M6, had given a categoric finding that in the application filed by the respondent under Ex-M6, he had mentioned his educational qualification only as 8th standard and also relevant certificate had also been annexed to that application. When the very application submitted by the respondent, which was marked as Ex-M6 before the Labour Court, clearly mentions that he had completed educational qualification of 8th standard and had also annexed the necessary certificates, the charge against the respondent that he had submitted a bogus SSLC certificate is baseless and cannot be sustained.

8.The appellant had also sent the School certificate filed by the respondent at the time of securing employment, as Driver, which was marked as Ex-M7 before the Labour Court, which shows that he has passed 8th standard in Baratha Matha Middle School, Vadukkunarippaiyur,



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Kadaladi Range, Ramanathapuram District, for verification to the District Primary School Educational Officer, Ramanathapuram, which was, in turn, forwarded to the Assistant Primary Educational Officer, Kadaladi, for verification. The report obtained through letter, dated 28.04.2003, which had also been produced in the document in Ex-M7 series, had been replied that the 8th standard School certificate produced by the respondent is a genuine one. Therefore, it leaves no room for doubt that the respondent had only a certificate for having studied School upto 8th standard and those certificates have also been subjected for verification by the appellant Corporation by sending it to the concerned District Educational authorities and a report had also been received after enquiry that the 8th standard certificate submitted by the respondent is a genuine one.

9. More over, the Labour Court in the award had specifically given a finding that even though the appellant Corporation had charged the respondent that he had submitted a bogus SSLC certificate, the appellant had never produced the alleged SSLC certificate submitted by the respondent of which only an adverse inference can be drawn that actually no such bogus certificate is available. Further, from the records, it is seen that



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a third party had sent a complaint to various authorities including the Chief Minister's Special Cell and only based on forwarding of those complaints, the notice was issued charging that the respondent had submitted a bogus SSLC certificate. When actually no such SSLC certificate has been produced by the appellant Corporation and it is borne out from the records that the respondent had only submitted the certificates of having completed upto 8th standard, which had also been found to be genuine after verification, the Labour Court had passed the award setting aside the order of dismissal, which was rightly upheld by the Writ Court.

10.The Writ Court having found that even though the award was passed as early as on 11.02.2016, the appellant Corporation had kept quiet till the year 2021 for nearly five years and had not chosen to challenge the award for such a long period. Further, during this period, the appellant Corporation did not also choose to pay any wages to the respondent under Section 17(B) of the Industrial Disputes Act, 1947. Having been in a long slumber for nearly five years and also not implemented the award reinstating the respondent and further had not bothered to pay the wages to the respondent, the appellant have preferred the Writ Petition, after a long



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delay of five years and the Writ Petition preferred by the appellant Corporation is also hit by laches. The learned Judge, by taking note of all these aspects, has come to the conclusion that the award passed by the Labour Court in setting aside the order of dismissal is perfectly valid and as such, dismissed the Writ Petition by confirming the award passed by the Labour Court. We see no reason or error in the order of the learned Judge, which requires interference of this Court. Accordingly, the order passed by the learned Judge is sustained.

11.Resultantly, 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]
21.06.2024

Internet :Yes/No
Index :Yes/No
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