



W.A(MD)No.1919 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE P.VADAMALAI**

**W.A(MD)No.1919 of 2021
and
C.M.P(MD)No.8469 of 2021**

The General Manager,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Karaikudi Region,
Marudhupathi,
Managiri,
Karaikudi – 630 307.

... Appellant /
Petitioner

Vs.

1.N.Paulraj

... 1st Respondent /
1st Respondent

2.The Joint Commissioner of Labour,
Chennai – 600 006.

... 2nd Respondent /
2nd Respondent



W.A(MD)No.1919 of 2021

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.20216 of 2014 dated 26.11.2020 on the file of this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondent : Ms.A.Amala
for R.1

No Appearance for R.2

ORDER

Heard both sides.

2.Even before commencement of arguments, the learned counsel appearing for the first respondent on instructions submitted that Thiru.N.Paulraj / first respondent herein will be satisfied if he is given 50% of the backwages even though he had succeeded in W.A(MD)No.1079 of 2022 on 22.08.2024. This undertaking and submission made by Thiru.N.Paulraj through his counsel is placed on record.

3.Thiru.N.Paulraj joined TNSTC, Kumbakonam as driver on 23.12.1991. Sometime in the year 2005, an anonymous complaint was received stating that Thiru.N.Paulraj has given bogus education certificate. The



W.A(MD)No.1919 of 2021

Management wrote to the District Educational Officer seeking confirmation regarding the genuineness of the certificate. Reply was received from the Department to the effect that the certificate is not genuine. Thereupon, enquiry was initiated. The Enquiry Officer rendered a finding that the charge framed against Thiru.N.Paulraj stood proved. Concurring with the said finding, the Management imposed penalty of dismissal from service. Approval was sought under Section 33(2)(b) of Industrial Disputes Act, 1947. The approving authority denied approval vide order dated 22.08.2013 in A.P.No.196 of 2012. Questioning the same, the Management filed W.P(MD)No.20216 of 2014. The writ petition was dismissed vide order dated 26.11.2020. Challenging the same, the Management has filed this intra-Court Appeal.

4. Technically nothing survives for further adjudication in this Writ Appeal. This is because, Thiru.N.Paulraj filed W.P(MD)No.5190 of 2021 for payment of salary arrears and other attendant benefits. The Writ Petition was dismissed. Questioning the same, W.A(MD)No.1079 of 2022 was filed and the Hon'ble Division Bench set aside the order of the learned Single Judge and allowed the Writ Appeal on 22.08.2024. The Hon'ble Division Bench had held that Thiru.N.Paulraj had retired from service and will be entitled to all the benefits.



W.A(MD)No.1919 of 2021

5.The learned counsel for the workman drew our attention to the decision reported in **2017-IV-LLJ-10 (Mad) (Management, Tamil Nadu State Transport Corporation Vs Joint Commissioner of Labour (Conciliation), Chennai – 6 & Another)**. It was held therein that though the scope of enquiry under Section 32(2)(b) of the Industrial Disputes Act, 1947 is limited, it cannot be disputed that the authority while considering the application under Section 33(2)(b) can certainly refuse approval, if according to him, the finding of guilt is perverse. He can also interfere if he comes to the conclusion that principles of natural justice had not been complied with. In the case on hand, the second respondent authority after careful discussion of materials on record came to the conclusion that there was violation of the principles of natural justice. This finding had been endorsed by the learned Single Judge also. We therefore decline to interfere with the order impugned in this writ appeal. Since Thiru.N.Paulraj had already reached the age of superannuation in 2021 itself and since he had given up claim on 50% of the backwages, whatever is payable to Thiru.N.Paulraj will be appropriately calculated in terms of the undertaking given in this Writ Appeal and paid to him within a period of sixteen weeks from the date of receipt of the copy of this order. What has been given up by Thiru.N.Paulraj is only 50% of the backwages. He is entitled to all other benefits including DCRG and pension.



W.A(MD)No.1919 of 2021

6.The Writ Appeal stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [P.V.M., J.]
28.11.2024

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

To

The Joint Commissioner of Labour,
Chennai – 600 006.



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W.A(MD)No.1919 of 2021

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