



W.A.(MD)No.1315 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : **10.09.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**
AND
THE HONOURABLE MR.JUSTICE **K.K.RAMAKRISHNAN**

W.A.(MD)No.1315 of 2019
and
C.M.P(MD)No.11091 of 2019

The Management
Tamil Nadu State Transport Corporation Madurai Ltd.,
Rep. by its Managing Director,
Madurai Region,
Madurai.

: Appellant

Vs.

1.S.Ramaraj

2.The Presiding Officer,
Labour Court,
Madurai.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent to set aside the order dated 17.09.2018 passed in W.P.(MD) No.8756 of 2011.

For Appellant	: Mr.J.Senthil Kumaraiah
For Respondents	: No appearance for R1 R2- Labour Court



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JUDGMENT

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(Judgment of the Court was delivered by **P.VELMURUGAN, J.**)

This writ appeal has been directed against the order dated 17.09.2018 passed in W.P.(MD) No.8756 of 2011.

2. The first respondent joined duty as Driver on 29.05.1992 in the appellant Corporation. However, on 01.06.1992, the appellant gave employment on casual basis. Though the first respondent rendered more than 240 days of continuous service from 01.06.1992 to 31.01.1993, the appellant illegally terminated the first respondent. Hence, he approached the Labour Court and filed I.D.No.156 of 2001. The Labour Court, after considering the oral and documentary evidences, by order dated 26.06.2008, directed the appellant Corporation to reinstate the first respondent with continuity of service. However, the Labour Court has denied the backwages and other attendant benefits. Hence, the first respondent filed the writ petition in W.P.(MD)No.8756 of 2011 regarding the denial of backwages. The appellant Corporation also filed the writ petition in W.P.(MD)No.6041 of 2011 to quash the entire order of the Labour Court in I.D.No.156 of 2001 dated 26.06.2008. The Writ Court, by common order dated 17.09.2018, dismissed the petition



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filed by the appellant and allowed the petition filed by the first respondent and set aside the order of denial of backwages alone. Further, the Writ Court directed the appellant Corporation to reinstate the first respondent with continuity of service as directed by the Labour Court and to pay 50% of backwages to him from the date of his termination, less the amount paid under Section 17(b) of the Act, if any. Challenging the same, the appellant Corporation has filed the present writ appeal.

3. The learned counsel for the appellant Corporation would submit that the first respondent attained superannuation in the year 2015 itself, whereas, the writ Court passed the order only on 17.09.2024. Since the said fact was not brought to the notice of the learned Single Judge, the learned Single Judge has directed the appellant Corporation to reinstate the first respondent with continuity of service. He would further submit that the first respondent did not join the duty after passing of the order of the Labour Court. Instead of that, he filed the writ petition challenging the order of the Labour Court regarding the denial of backwages and other attendant benefits. The appellant has also filed the writ petition challenging the order of the Labour Court, which was dismissed the by the learned Single Judge.



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4. Though the learned counsel for appellant would submit that the first respondent did not join the duty after passing of the order of the Labour Court, however, he filed the writ petition, they have not produced any document to show that they sent a communication to the first respondent to join the duty and despite they sent the communication to join the duty, he refused to join the duty. Therefore, under these circumstances, the contention of the learned counsel for the appellant is not acceptable. However, both the Labour Court as well as the writ Court observed that the first respondent was engaged over and above the statutory period. Since the first respondent has attained superannuation in the year 2015 itself, the relief of reinstatement does not arise, however, he is entitled to all the monitory benefit till the superannuation.

5. With the above direction, this Writ Appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

[P.V.,J.] [K.K.R.K.,J.]
10.09.2024

skn

NCC : Yes/No

Index : Yes / No

Internet : Yes



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To

The Presiding Officer,
Labour Court,
Madurai.



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