



W.P(MD)No.16007 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.16007 of 2017

Velmurugan

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Tirunelveli District.

2.The Management,
Tamil Nadu Transport Corporation,
Tirunelveli District, Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned award passed by the 1st respondent in I.D.No.78 of 2016, dated 28.11.2016 and to set aside the denial of back wages alone for the period from 01.06.2016 to 28.11.2016 as illegal and consequently, to direct the 2nd respondent herein to pay all salary benefits including back wages for the period from 01.06.2016 to 28.11.2016.

For Petitioner : Mr.G.M.Xavier

For R1 : Court

For R2 : Mr.K.Sathiya Singh



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ORDER

The award of the 1st respondent dated 28.11.2016 made in I.D.No.78 of 2016, denying the back wages to the petitioner for the period from 01.06.2016 to 28.11.2016, is under challenge in this Writ Petition.

2. According to the petitioner, he is working as Driver in the 2nd respondent Management. He applied for medical leave from 11.05.2016 for a period of one month due to his illness. Thereafter, on 01.06.2016, when he reported before the Branch Manager, the Branch Manager refused to accept the joining report of the petitioner, as there was a police complaint against the petitioner. Therefore, the petitioner has raised an industrial dispute before the 1st respondent in I.D.No.78 of 2016, where the 1st respondent, vide award dated 28.11.2016, though granted reinstatement, denied the back wages for the period from 01.06.2016 to 28.11.2016. Therefore, aggrieved by the said denial of back wages alone, the petitioner has filed this Writ Petition.

3. The learned counsel appearing for the petitioner would submit that the 1st respondent has categorically come to the conclusion that the petitioner has put forth his case that he has approached the Branch Manager to appropriate job and the same was rejected by the Branch Manager, however,



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opposing the said statement, the 2nd respondent has not filed any counter or produced any oral or documentary evidence. However, the 1st respondent though ordered for reinstatement, refused to grant back wages.

4.The learned counsel appearing for the 2nd respondent would submit that since there was no work starting from 01.06.2016 to 28.11.2016, on the basis of 'No Work No Pay' the 1st respondent has rightly passed the award, denying the back wages for the said period. Therefore, the same need not to be interfered with. Further, pursuant to the impugned award, the 2nd respondent has reinstated the petitioner and the petitioner is now working in the respondent Management.

5.I have given due consideration to the submission made on either side and perused the materials available on record, especially, the impugned award passed by the 1st respondent.

6.A perusal of the impugned award shows that when the petitioner had approached the Branch Manager to report duty, the Branch Manager refused to accept the joining report of the petitioner, since he was willing to work. However, the 2nd respondent had not made any objection either by filing



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counter or by producing oral and documentary evidences. This was the finding recorded by the 1st respondent. However, while passing the award, reinstatement was awarded with effect from 28.11.2016 without any back wages.

7.This Court is of the view that if the fault is on the part of the petitioner, who had failed to work with the respondent Management, the question of No Work No Pay will come into picture. However, the fault is only on the part of the 2nd respondent, refusing to provide employment to the petitioner. This is also confirmed in the impugned award of the 1st respondent.

8.Such being the position, while passing the impugned award granting reinstatement, the 1st respondent should have considered for the back wages also, when it was found that it was not on the fault of the petitioner. Therefore, I find fault in the decision making process of the 1st respondent only with regard to the refusal to grant back wages. Therefore, the same is set aside. As far as the reinstatement of the petitioner is concerned, it is confirmed.

9.In view of the above, the 2nd respondent is directed to calculate and pay all the back wages with effect from 01.06.2016 to 28.11.2016 along with



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interest at the rate of 7% per annum from the date of due till the date of payment, which is to be paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

10. With the above observations and directions, this Writ Petition is partly allowed. No costs.

06.11.2024

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

Yuva

Note: Issue Order copy on 11.11.2024.

To

The Management,
Tamil Nadu Transport Corporation,
Tirunelveli District, Tirunelveli.



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KRISHNAN RAMASAMY, J

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