



WEB COPY



W.P.No.11561 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11561 of 2011

And

M.P.No.1 of 2011

The Management of Tamil Nadu State
Transport Corporation (Coimbatore Division I) Ltd.,
by its Managing Director,
No.37, Mettupalayam Road,
Coimbatore – 641 043. ... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Coimbatore.

2.K.J.Bhojarajan ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari call for the records of the first respondent in
I.D.No.264 of 2005 dated 28.09.2010 and quash the same.

For Petitioner : Mr.A.Sundaravadhanan
For Respondents : R1 – Labour Court
Mr.L.Palanimuthu for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of



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Writ of Certiorari call for the records of the first respondent in I.D.No.264 of 2005 dated 28.09.2010 and quash the same.

2.The petitioner Management has filed this writ petition challenging the award passed in favour of the second respondent workman directing the petitioner to reinstate the second respondent in service in the post held by him lastly with continuity of service but without backwages and other attendant benefits inclusive of gratuity for the non employment period commencing from 21.11.2000 to till the date of reinstatement.

3.The case of the second respondent workman is that the second respondent joined the petitioner Corporation as a conductor on 13.03.1981 and rendered service for more than 16 years without any bad remarks and that he met with an accident while he was on duty on 25.10.2010 and hence he was unable to report for duty commencing from 25.10.2010, thereby, the petitioner Management issued a charge memo dated 18.12.2000 and conducted a domestic enquiry and without taking into consideration the explanation submitted by him, the Management passed the order of dismissal dated 05.04.2001 and hence, the second respondent raised the industrial dispute under



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Section 2A (2) of the Industrial Disputes Act, 1947 before the first respondent and the first respondent passed the award dated 28.09.2010.

4.The learned counsel appearing for the petitioner submitted that prior to the passing of the order of dismissal, the second respondent was imposed with 25 punishments and out of the 25 punishments, 10 was imposed for his un-authorised absence. Considering his continuous mis-conduct, the order of dismissal was passed, however, the Labour Court passed the impugned award, which is not sustainable one. The learned counsel further submitted that the second respondent attained the age of superannuation on 31.05.2011.

5.The learned counsel appearing for the second respondent submitted that the second respondent joined the petitioner Corporation as a conductor on 13.03.1981 and after rendering 20 years of service was issued with order of dismissal dated 05.04.2001 for un-authorized absence, which is highly excessive and shocking to the conscious of the Court, thereby the Labour Court directed the petitioner to reinstate the second respondent in service in the post held by him lastly with continuity of service but without backwages



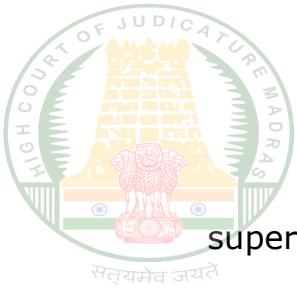
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and other attendant benefits inclusive of gratuity for the non employment period commencing from 21.11.2000 to till the date of reinstatement, which may not be interfered with.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.Admittedly, the second respondent joined the petitioner Corporation as a conductor on 13.03.1981 and for his un-authorized absence the order of dismissal dated 05.04.2001 was issued to him. For un-authorized absence, the order of dismissal is too harsh. If the punishment imposed is too harsh and shocking to the conscious of the Court, the Court can very well interfere with the punishment. Hence, the Labour Court directed the petitioner to reinstate the second respondent in service in the post held by him lastly with continuity of service but without backwages and other attendant benefits inclusive of gratuity for the non employment period commencing from 21.11.2000 to till the date of reinstatement, which warrants no interference.

8.However, the second respondent attained the age of



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superannuation on 31.05.2011. Hence, reinstatement is not possible.

Hence this Court directs the petitioner Management to pay the terminal benefits and other attendant benefits without backwages from the date of termination till the date of retirement i.e., 31.05.2011 with continuity of service including pension to the second respondent, within a period of eight weeks from the date of receipt of a copy of this order. It appears that the second respondent has passed away during the pendency of this writ petition. If so, the petitioner Management shall pay the terminal benefits and other benefits as directed by this Court to the legal heirs of the second respondent, on proper identification.

9.The writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

03.02.2025

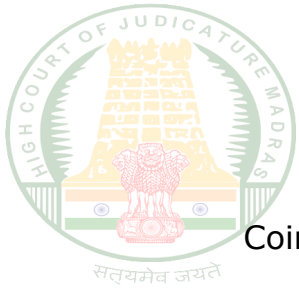
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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Presiding Officer,
Labour Court,

5/6



Coimbatore.

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M.DHANDAPANI,J.
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