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W.P.No.20369 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.20369 of 2015

M.P.No.1 of 2015 and W.M.P.Nos.2557 and 2558 of 2016

The General Manager,
TNSTC (Kumbakonam) Limited,
New Railway Station Road,
Kumbakonam-612 001,
Thanjavur District.

... Petitioner

Vs.

1.A.Abdul Rahman

2.The Presiding Officer,
Labour Court,
Cuddalore.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records of the order passed by the second respondent in I.D.No.155 of 2009 dated 12.08.2014 and quash the same as illegal.



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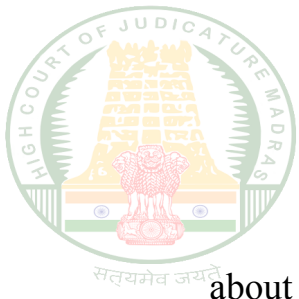
For Petitioner : Mr.C.Senapathi

For Respondents : Mr.R.Muralidharan for R1
R2-Court

ORDER

This Writ Petition has been filed by the petitioner/Transport Corporation, challenging the award dated 12.08.2014 passed in I.D.No.155 of 2009 by the second respondent.

2. The case of the petitioner is that the first respondent was working as Conductor in the training session in the petitioner Corporation and he was unauthorizedly absent without any prior permission or leave application for a period of 31 days during the month of August 2001 and thereby, the petitioner Corporation initiated departmental proceedings by issuing charge memo. Even though the first respondent has received the charge memo, he has not submitted any explanation to the same. Thereafter, enquiry was ordered on the charges levelled against him, however, he has not appeared before the Enquiry Officer, even though intimation was given

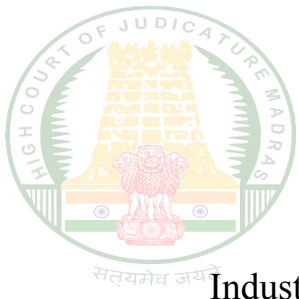


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about the enquiry to the first respondent and thereby, the Enquiry Officer has drawn an ex-parte minute against the first respondent, on that basis, he was dismissed from service on 16.05.2002. Challenging the same, the first respondent raised I.D.No.155 of 2009 before the second respondent. However, the second respondent, vide impugned award dated 12.08.2014, ordered for reinstatement to the first respondent with backwages and continuity of service and modified the punishment as stoppage of two increments with cumulative effect, which is under challenge in this writ petition.

3. The learned counsel appearing for the petitioner Corporation submits that since the charge levelled against the first respondent has been proved, the petitioner Corporation has dismissed the first respondent from service on 16.05.2002, however, the first respondent raised the Industrial Dispute before the second respondent/Labour Court in the year 2009 only. The delay in raising the Industrial Dispute has not been properly explained before the Labour Court. Even though there is no limitation for raising the

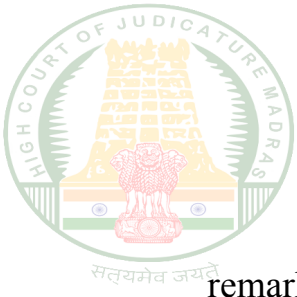


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Industrial Dispute, the delay has to be properly explained before the Labour Court. Further, the petitioner did not appear before the Enquiry Officer and no medical records were produced before the Enquiry Officer to show that he was ill-health, due to which, he has not attended duty. However, the Labour Court, without considering the above factual aspects, ordered for reinstatement with backwages and continuity of service and imposed punishment as stoppage of two increments with cumulative effect. He would further submit that the first respondent now reached the age of superannuation. Hence, he prays for allowing this writ petition.

4. The learned counsel appearing for the first respondent would submit that the first respondent was elected as Vice President of the Co-operative Society of the petitioner Transport Corporation and since no Secretary is available in the Co-operative Society, he was deputed to manage the affairs of the Co-operative Society and thereby, he was not able to attend the duty. Even assuming that the first respondent was unauthorisedly absent for 31 days and the order of dismissal is correct, previously no adverse



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remark has been made against the first respondent and thereby, the Labour Court ordered for reinstatement.

5. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the first respondent.

6. Admittedly, the first respondent was employed as conductor in the petitioner Transport Corporation. He claims that he was elected as Vice President in the Co-operative Society of the petitioner Transport Corporation for the benefits of the employees working in the petitioner Corporation and since no Secretary is available in the Co-operative Society, the first respondent was deputed to manage the affairs of the Society and thereby, he was not able to attend the duty. However, the first respondent has not adduced any evidence before the Labour Court with regard to the deputation order issued by the petitioner Corporation in favour of him to prove the above fact. Though the order of dismissal is highly disproportionate for unauthorised absence as claimed by the first respondent



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for which, the Labour Court ordered for reinstatement with backwages and continuity of service, the first respondent was dismissed from service on 16.05.2022 and he raised the Industrial Dispute before the Labour Court only in the year 2009 and therefore, undoubtedly, he is not entitled for continuity of service including backwages from the date of dismissal order (i.e.,) 16.05.2002, till the Industrial Dispute was raised by him before the Labour Court. Further, it appears that the first respondent reached the age of superannuation. Therefore, the order of reinstatement would not arise in this case. Hence, this Court is inclined to modify the award dated 12.08.2014 passed in I.D.No.155 of 2009 in the following manner:

(i) the first respondent shall be entitled for continuity of service from the date of entry into service till the date of dismissal order (i.e.,) 16.05.2022.

(ii) the first respondent is not entitled for continuity of service and backwages and monetary benefits from the date of dismissal order till the Industrial Dispute was raised in the year 2009.



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(iii) the first respondent is entitled for counting of service without backwages from the date of raising the Industrial Dispute till the date of superannuation.

(iv) The petitioner Corporation is directed to settle the terminal benefits as stated above by calculating the period of service of the 1st respondent within a period of eight weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is partly allowed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

05.03.2025

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No
ssb

To

The Presiding Officer,
Labour Court,
Cuddalore.



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M.DHANDAPANI,J.

ssb

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