



W.P.Nos.22961 & 22962 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.22961 & 22962 of 2015

and

M.P.Nos.1 & 1 of 2015

W.P.No.22961 of 2015

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
12, Ramakrishna Road,
Salem – 636 007
Rep. by its General Manager

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Salem.

2. The General Secretary,
Salem Dharmapuri Namakkal, Erode District,
Transport and General Employees Sangam,
89-408, S.Mullai Nagar,
Sooramangalam,
Salem – 636 005.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records passed by the 1st respondent in I.D.No.14 of 2008 dated 29.01.2013 and to quash the same and against the provisions of the Industrial Disputes Act, 1947.



WEB COPY



W.P.Nos.22961 & 22962 of 2015

For Petitioner : Mr.M.Aswin
For R1 : Court
For R2 : No appearance

W.P.No.22962 of 2015

The Management,
Tamil Nadu State Transport Corporation (Salem Division),
12, Ramakrishna Road,
Salem – 7
Rep. by its General Manager ...Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Salem.
2. V.Sellappan ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records passed by the 1st respondent in I.D.No.106 of 2012 dated 20.11.2014 and to quash the same and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.M.Aswin
For R1 : Court
For R2 : No appearance



W.P.Nos.22961 & 22962 of 2015

COMMON ORDER

WEB COPY

Since the issue involved in the above writ petitions are one and the same they are disposed of by way of this common order.

2. It is the case of the petitioner / management that the second respondent in respective writ petitions were appointed as Drivers in the petitioner Corporation. As they committed grave misconducts including fatal accidents and unauthorised absence, the management issued charge memos to the respective second respondents. Since the explanation given by the respective second respondent were not found to be satisfactory, domestic enquiry was ordered and the enquiry officer submitted his findings in which the charges leveled against the respective second respondent were held proved in the enquiry. Subsequently, orders of dismissal were passed. Aggrieved over the same, the workmen raised industrial disputes before the first respondent in I.D.Nos.14 of 2008 and 106 of 2012 has passed the awards vide orders dated 29.01.2013 and 20.11.2014. Challenging the same, the present writ petitions have been filed.



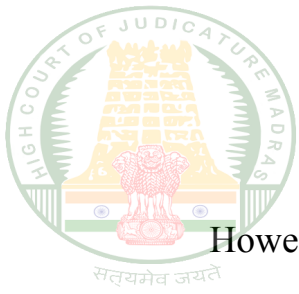
W.P.Nos.22961 & 22962 of 2015

WEB COPY

3. The learned counsel for the petitioner submitted that in respect of W.P.No.22961 of 2015, the second respondent applied for Voluntary Retirement Scheme. Hence, no further orders is necessary in the said writ petition.

4. However, in respect of W.P.No.22962 of 2015, he submitted that though the second respondent was dismissed from service for his unauthorised absence, however, without considering the same, the Labour Court has ordered for reinstatement with continuity of service along with 25% backwages and modified the punishment as regards stoppage of increment for three years on the ground that there is no proof for his absence in the domestic enquiry, which is *per se* unsustainable.

5. Considering the fact that the second respondent in W.P.No.22962 of 2015 was not employed from the year 2007, applying no work no pay rule, this Court modifies the award dated 20.11.2014 passed by the Labour Court only to the certain extent that the second respondent is not entitled for 25% back wages instead he is only entitled for 10% back wages by exercising power u/s.11A of the Industrial Disputes Act, since the said allegation is not a grave misconduct.



W.P.Nos.22961 & 22962 of 2015

However, all the other observations made in the order dated 20.11.2014

WEB COM shall remain intact.

6. With the above modification, W.P.No.22962 of 2015 stands disposed of and W.P.No.22961 of 2015 stands closed. No costs. Consequently, connected miscellaneous petitions are closed.

04.03.2025

rap

Speaking Order : Yes/ No

Index : Yes/ No

NCC : Yes/ No

To

The Presiding Officer,
Labour Court,
Salem.



WEB COPY



W.P.Nos.22961 & 22962 of 2015

M.DHANDAPANI., J.

rap

W.P.Nos.22961 & 22962 of 2015

04.03.2025