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W.P.No.29988 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**W.P.No.29988 of 2015
and M.P.No.1 of 2015**

The Management,
State Express Transport Corporation Limited,
Pallavan Salai,
Chennai-600 002.

... Petitioner

Vs.

1.R.Govindan

2.The Presiding Officer,
II Additional Labour Court,
City Civil Court Annexure Buildings,
High Court Compound,
Chennai-600 104.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records pertaining to the order passed in I.D.No.294 of 2006 dated 27.11.2012 on the file of the second respondent herein and quash the same.



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For Petitioner : Mr.S.Sivasubramani

For Respondents : R1-No appearance
R2-Labour Court

ORDER

This Writ Petition has been filed challenging the order passed in I.D.No.294 of 2006 dated 27.11.2012 on the file of the second respondent herein, by which, the Labour Court has ordered reinstatement with continuity of service and 50% backwages and all other attendant benefits.

2. The facts necessary for disposal of this writ petition are that the first respondent was engaged as casual driver from the year 1994 in the petitioner Management and continued his service upto 1998. Since the services were not regularised, he filed W.P.No.5984 of 1997 and the same was disposed of by this Court on 08.12.1997 directing the petitioner Management to continue him in service and even thereafter, the services were not regularised. While so, an accident occurred on 12.12.1998, pursuant to which, a show cause notice was issued to the first respondent



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stating that the accident occurred due to his negligence. The first respondent submitted his explanation and the same was not satisfactory. The petitioner Management conducted domestic enquiry and a criminal case in C.C.No.59 of 1999 was filed before the learned Judicial Magistrate, Chittoor, with respect to the accident and ultimately, the first respondent was acquitted on 04.12.2002. Thereafter, the first respondent was terminated from service on 24.07.2000. Challenging the dismissal order passed by the Petitioner Management, the first respondent raised Industrial Dispute before the Labour Court in I.D.No.294 of 2006.

3. The petitioner Management filed a counter affidavit stating that the employee's rash and negligence was the reason for the accident and therefore, the charges were proved. That apart, since the first respondent has not denied the factum of permanency of the employment on the ground that he was engaged only as a casual employee during the festival season and since he was engaged as daily rated casual employee, he is not entitled to get the relief from the Management.



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4. The Labour Court, after considering the documentary evidence, came to a conclusion that since the terminated employee was working from 1994 till 1998 continuously, and that the petitioner Management did not disprove their claim by producing the attendance register or salary register, the case of the employee that he was working as regular employee has to be accepted. The Labour Court also stated that since the criminal case ended in acquittal, the petitioner Management ought to have taken the same into consideration. With respect to the relief of entitlement of the terminated employee to get the relief of reinstatement into service with backwages, the Labour Court relied on the judgment of this Court reported in (2009) 2 MLJ 355 and finally, came to a conclusion that the employee is entitled to get the relief of reinstatement and all other attendant benefits. Thereby, the award was passed directing the petitioner Management to reinstate the petitioner with continuity of service with 50% backwages and other attendant benefits. Challenging the same, the present Writ Petition has been filed by the petitioner Management.



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5. The learned counsel appearing for the petitioner Management challenges the impugned award stating that the accident occurred at the time when the first respondent was engaged as temporary casual driver and since the explanation submitted by the first respondent was not satisfactory, the domestic enquiry was ordered and based on the findings of the enquiry Officer, the punishment was imposed. That apart, the learned counsel appearing for the petitioner vehemently contended that the first respondent has not completed 240 days of service according to section 25(F) of the Industrial Disputes Act and therefore, the termination of the first respondent has to be sustained. Contending so, the learned counsel appearing for the petitioner sought for setting aside the impugned award passed by the Labour Court.

6. Heard the learned counsel appearing for the petitioner. Though notice was served to the first respondent, no one appeared before this Court.



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7. This Court after carefully considering the rival submissions is of the view that the accident occurred in the year 1998 and the criminal case was registered pursuant to the charge memo and the enquiry was conducted and the employee was terminated on 24.07.2000. Industrial Dispute was filed and the award was passed on 27.11.2012. Admittedly, the termination order was passed on 24.07.2000 and after a lapse of 24 years, no purpose would be served by upholding the award passed by the Labour Court, wherein, the reinstatement with continuity of service was ordered. Considering the service rendered by the first respondent between 1994 and 1998 and also the delinquency that led to his termination namely, the accident occurred due to his negligence and also more importantly the long passage of time, no practical purpose would be served in confirming the order of the reinstatement. Accordingly, this Court deems it just and appropriate to direct the payment of Rs.1,00,000/- as compensation in lieu of reinstatement into service. The petitioner Management is directed to pay the sum of Rs.1,00,000/- (Rupees One Lakh only) in favour of the first



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respondent within a period of four weeks from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is disposed of. There shall be no order as to costs. Connected miscellaneous petition is closed.

18.03.2025

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

To
The Presiding Officer,
II Additional Labour Court,
City Civil Court Annexure Buildings,
High Court Compound,
Chennai-600 104.



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M.DHANDAPANI,J.

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