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W.P.No.10052 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.10052 of 2021
and W.M.P.No.10685 of 2021

The Management,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Villupuram District. ... Petitioner

vs-

E. Karunakaran ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records relating to the order passed by the Presiding Officer, Labour Court, Cuddalore, dated 12.12.2019 made in I.D.No.38 of 2017 and quash the same.

For Petitioner : Ms.S.Pavithra

For Respondent : Served – No appearance

ORDER

The Transport Corporation has challenged the Award passed by the Labour Court, Cuddalore in I.D.No.38 of 2017



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2. The respondent was appointed as a driver on a daily wage basis on 16.01.2000 in the petitioner-Corporation. Thereafter, he was absorbed into the monthly cadre on 01.01.2002 and was working at Villupuram-I Depot. During the course of his employment, he has been continuously absent from duty from 21.07.2014, which constituted misconduct as per the Standing orders of the petitioner-Corporation. Accordingly, a Charge Memo dated 18.09.2014 was served on the respondent. The respondent failed to give his explanation. Thereafter, a domestic enquiry was held and the Enquiry Officer submitted a report dated 12.12.2014 holding the charges as proved. The petitioner, by letter dated 08.08.2015, enclosing the enquiry report, called upon the respondent to offer an explanation as to why the report of the Enquiry Officer could not be accepted. Thereafter, a second show cause notice dated 17.04.2015 was issued to the respondent. The respondent did not give any explanation to both the notices and by order dated, 17.11.2015, the respondent was removed from services of the petitioner.

3. The respondent had immediately raised an industrial dispute before the Assistant Commissioner of Labour, Vellore. The conciliation



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proceedings had failed and the matter was referred for adjudication in I.D.No.38 of 2017 before the Labour Court, Cuddalore. The Labour Court had ordered reinstatement with continuity of service without back wages by its order dated 12.12.2019.

4. The petitioner-Corporation thereafter sent an offer letter dated 09.10.2020 to the respondent-workman which reads as follows:

“As per the order of Labour Court, Cuddalore in I.D.No.38 of 2017 in the reference first cited and approval of the Board in the reference second cited, to file an appeal before the High Court against the order of “with continuity of service” as ordered by the Labour Court, Cuddalore in I.D.No.38 of 2017 dated 12.12.2019 and Thiru.E.Karunakaran, Ex-Driver, DR4063 is hereby re-instated into service as Driver without continuity of service and without back wages as recommended by the Board.”



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This offer was turned down by the respondent through his reply dated 19.11.2020, as it was contrary to the order passed by the Labour Court.

Therefore, the petitioner is before this Court.

5. Heard the learned counsel for the petitioner and perused the materials available on record. Though the respondent-workman has been served with notice, there is no appearance on his behalf either in person or through counsel.

6. At first blush, the argument of the petitioner appear attractive as they would contend that despite the offer of reinstatement, the respondent-workman had turned it down. However, a perusal of the reply of the respondent-workman to the petitioner's offer vide legal notice dated 19.11.2020 would demonstrate that the offer letter given by the petitioner is with a condition that there shall not be continuity of service which is totally contrary to the Award passed in I.D.No.38 of 2017. The Labour Court, on sifting through the evidence, had come to the conclusion that the domestic enquiry has not been conducted in a fair manner and that the petitioner-Corporation has not proved the



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charges against the respondent. The Labour Court had also taken into consideration the fact that the absence from work had been properly explained. After taking into account the overall facts the Court had ordered reinstatement with continuity of service without back wages. The Award cannot be found fault with it. Therefore, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To

The Presiding Officer, Labour Court, Cuddalore,



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P.T.ASHA, J.,

srn

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