



W.P.No.16091 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16091 of 2019

and

W.M.P.Nos.15857 of 2019 & 9786 of 2023

The Management,
Tamil Nadu State Transport Corporation (Salem) Limited,
Dharmapuri Region,
Bharathi Puram,
Dharmapuri – 5. ...Petitioner

Vs.

M.Raja ...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the order dated 09.05.2018 passed by the Labour Court, Salem in I.D.No.31 of 2013 and to quash the same.

For Petitioner : Mr.M.Aswin

For Respondent : Mr.K.V.Shanmuganathan

ORDER

The petitioners-transport corporation, aggrieved by the award passed by the Labour Court, Salem, dated 09.05.2018 in I.D.No.31 of 2013, has filed this writ petition.



W.P.No.16091 of 2019

WEB COPY 2. The short facts are that the respondent was working with the petitioner corporation as driver since 20.03.1987. The respondent had absented himself from attending duty without prior intimation since 14.05.2011. Therefore, the petitioner initiated disciplinary proceedings against him and after conducting departmental enquiry, he was dismissed from service vide order dated 29.05.2012. Thereafter, the respondent had raised an industrial dispute before the labour court in I.D.No.31 of 2013 and the labour court, ultimately, on analysis of the materials available before it, allowed the dispute raised by the respondent and directed the petitioner to reinstatement with continuity of service and all attendant benefits including increments and promotion to the respondent from the date of dismissal, back wages and costs. Challenging the same, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submitted that without any leave application, the respondent unauthorizedly absented himself from duty. He further submitted that merely because the time keeper has marked in the attendance register as ML, does not mean that medical leave was approved by the competent authority. The medical



W.P.No.16091 of 2019

WEB COPY

leave has to be approved by the competent authority on the basis of the leave application submitted by the respondent. In the present case, the respondent did not prove his case either before the labour court or before the enquiry officer that he submitted his medical leave application with supporting medical documents which was approved by the petitioner. In the absence of any record to show that the respondent obtained medical leave, which was approved by the petitioner, the order passed by the labour court is perverse. Accordingly, he prays for allowing the writ petition.

4. Per contra, learned counsel appearing for the respondent submitted that in the attendance register, the time keeper has marked as ML, which itself is a conclusive proof to hold that the respondent submitted the medical leave application, which was approved by the competent authority, thereby the labour court passed the impugned order in favour of the respondent, which does not require any interference. Accordingly, he prays for dismissal of this writ petition.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.



W.P.No.16091 of 2019

WEB COPY

6. Admittedly, the respondent employed under the petitioner as driver in the year 1987 and he was made permanent in the year 1988. For the alleged misconduct of unauthorized absence, after conducting disciplinary proceedings, the respondent was dismissed from service, against which, the respondent raised an industrial dispute before the labour court and the labour court passed the impugned award in favour of the respondent, assailing which, the present writ petition is filed.

7. It is pertinent to note that for the allegation of unauthorized absence, the petitioner has passed an order of dismissal as against the respondent, which is highly disproportionate. Therefore, the labour court has set aside the order of dismissal and passed the impugned order in favour of the respondent, which cannot be said to be illegal, perverse or arbitrary. However, considering the fact that the respondent/workman had attained the age of superannuation on 31.05.2013, this Court is inclined to pass the following orders :-

(i) the petitioner is directed to pay the terminal benefits and all other benefits of the respondent from the date of dismissal, i.e., 29.05.2012 till the date of



WEB COPY



W.P.No.16091 of 2019

superannuation, i.e., 31.05.2013 treating the period as though the respondent was in service, within a period of four (4) weeks from the date of receipt of a copy of this order.

(ii) However, it is made clear that the respondent is not entitled for any back wages, however, is entitled for continuity of service for the purpose of calculating the terminal benefits.

8. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

01.04.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

1.The Labour Court,
Salem.

2.The Management,
Tamil Nadu State Transport Corporation (Salem) Limited,
Dharmapuri Region,
Bharathi Puram,
Dharmapuri – 5.



WEB COPY



W.P.No.16091 of 2019

M.DHANDAPANI, J.

sp

W.P.No.16091 of 2019

01.04.2025