

W.P.No.24540 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 15.04.2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.24540 of 2019

A.Govindaraju

... Petitioner

Vs.

Management,
Tamil Nadu State Transport Corporation Ltd.,
(Salem) Ltd., Salem Region,
12, Ramakrishna Road, Salem - 7.

... Respondent

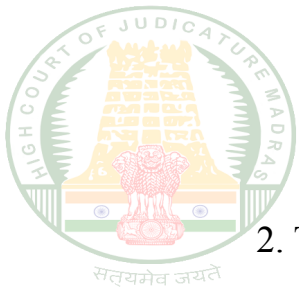
Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, calling for the records of the Labour Court, Salem in respect of impugned Award passed in I.D.No.78/2012, dated 04.01.2017 quashing the same and to pass an order to reinstate the petitioner with continuity of service, full back wages with interest and other attendant benefits.

For Petitioner : Mr.A.Rajendiran

For Respondent : Mr.M.Aswin

ORDER

The Writ petition has been filed seeking to quash the order passed by the Labour Court, Salem in I.D.No.78/2012, dated 04.01.2017 and to pass an order to reinstate the petitioner with continuity of service, full back wages with interest and other attendant benefits.



W.P.No.24540 of 2019

2. The brief facts of the case are as follows:

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The petitioner has been working as a Driver in the respondent corporation for 17 years. Due to severe back pain, he sought leave on medical ground with medical certificate and also sent application for extension of leave. However, the respondent did not send any reply, rejecting the leave and initiated disciplinary action against the petitioner. The respondent also admitted of having received leave applications and their failure to reject the leave. Hence, the petitioner approached the Labour Court, Salem by filing I.D.No.78/2012. On hearing both sides, the Labour Court dismissed I.D.No.78/2012 holding that the petitioner failed to appear in the hospital and there by concluded that the medical certificates is non genuine. Without sending any communication to appear before the hospital, the respondent took a stand that the petitioner failed to appear before the hospital. The respondent also failed to mark any acknowledgement of the same. This is a serious infirmity. The Labour Court failed to take into consideration the judgment of this Court in ***Tamil Nadu State Transport Corporation (Villupuram Division-I) Ltd., Rep. by its Managing Director. Vs. the Joint Commissioner of Labour (Conciliation), DMS Compound, Chennai – 600 006 and anr. reported in 2011-1-LLJ-646(Mad)*** wherein this Court held that the dismissal punishment for absence is too harsh. Hence, the petitioner has filed the present Writ



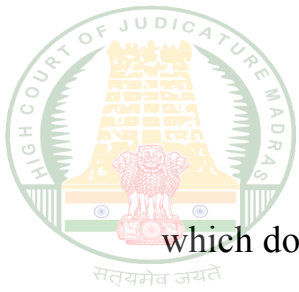
W.P.No.24540 of 2019

Petition with the aforesaid relief.

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3. The learned counsel for the petitioner submitted that admittedly, the petitioner filed a written medical leave application and the same was marked as Ex.P1 to Ex.P5 and the same was received by the respondent Management. Even then, the respondent served a charge memo without specific period and with only the date of beginning of the period of absence and left the closing date of the period as blank. The impugned award dated 04.01.2017 is based upon presumption and assumptions. The Labour Court has failed to appreciate the medical certificates and dismissed the ID, which is unsustainable.

4. The learned counsel for the respondent submitted that admittedly, the petitioner was unauthorised absent from 28.05.2009 onwards and he did not submit any explanation before the Enquiry Officer. Therefore, the Enquiry Officer drawn adverse inference as against the petitioner and drawn a proven minute. On the basis of the proven minute, dismissal order was passed. Apart from that, immediately after getting an explanation from the petitioner, he was requested to appear before the medical officer. Even then, he has not appeared. Hence, the order of dismissal has been passed by the respondent and after considering the entire materials, the Labour Court has also rejected the petition



W.P.No.24540 of 2019

which does not warrant any interference.

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5. Heard the learned counsel appearing for the petitioner as well as the respondents and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner had entered into service as Driver in the respondent/Corporation in the year 1994. The order of dismissal was passed on 29.11.2007. It is undisputed fact that the petitioner has rendered more than 16 years of service with the respondent. The allegation as against the petitioner is that he was absent from 28.05.2009 unauthorizedly. To disprove the said allegation, the petitioner has marked medical certificates. Though the Labour Court has accepted the said documents, dismissed the ID on the simple ground that the petitioner has not appeared before the Medical Officer. For his non appearance, the Medical Officer returned all the medical certificates to the respondent. Therefore, after conducting enquiry, the respondent passed an order of dismissal as against the petitioner. The Labour Court has also confirmed the said order passed by the respondent.

7. It is a settled principle of law that once the charges leveled against the



W.P.No.24540 of 2019

delinquent employee are proved then it is for the appointing authority to decide

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as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules. The petitioner has rendered 16 years of service with the respondent. Without considering the past service rendered by the petitioner, the respondent terminated the service of the petitioner which needs to be interference.

8. Now coming to the facts of the case in hand and keeping the factors in mind, this Court is of the considered view that the petitioner has submitted the leave applications with medical records and it is not possible for the employee to attend duty with medical ailments. Considering the facts and circumstances, which are taken note of supra, this court is of the view that the service of the petitioner and his past records should have been taken into account by the respondent before imposing punishment for termination.

9. In view of foregoing discussion, the dismissal order passed by the respondent is set aside. However, the petitioner is not entitled for getting any



W.P.No.24540 of 2019

backwages for his non employment period viz., from the order of dismissal to till the date of superannuation. This Court directs the respondent to settle entire terminal benefits to the petitioner with continuity of service within a period of eight weeks from the date of receipt of a copy of this order.

10. With the above observation, the writ petition is allowed. No costs.

15.04.2025

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To

Management,
Tamil Nadu State Transport Corporation Ltd.,
(Salem) Ltd., Salem Region,
12, Ramakrishna Road, Salem - 7.



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W.P.No.24540 of 2019

M.DHANDAPANI,J.

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W.P.No.24540 of 2019

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