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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.24591 of 2019
and WMP.No.24263 of 2019 & 10490 of 2025

The Management,
Tamil Nadu State Transport Corporation
(Salem) Limited,
Dharmapuri Region,
Dharmapuri-5.

... Petitioner

Vs.

D.Santhamurthy

... Respondent

Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorari, calling for the records relating to the order dated 11.09.2018 passed by the Labour Court, Salem in ID. No.66 of 2013 and to quash the same.

For Petitioner : Mr.M.Aswin
For Respondents : Mr.M.Naresh Babu

ORDER

Challenging the order order dated 11.09.2018 passed by the Labour Court, Salem in ID. No.66 of 2013 dated 11.09.2018, the present writ petition has been filed.



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2. The respondent herein was working as a driver with the staff No.DC 7059 with the petitioner Corporation at its Krishnagiri Branch. He had remained unauthorizedly absent from 03.11.2010 without obtaining any leave and without any prior intimation. Therefore, a charge memo dated 01.12.2010 was issued to the respondent charging him with misconducts of unauthorized absence from 03.11.2010 causing unnecessary inconvenience to the petitioner Corporation. The charge memo was sent to the respondent by post. However, the said charge memo returned unserved. Thereafter, a domestic inquiry was ordered to be conducted. Inquiry Notices sent to the respondent and he was not appeared before the inquiry officer. Hence, the respondent was set exparte. The inquiry proceedings were thereafter conducted in the absence of the respondent and the inquiry officer submitted his report to the petitioner Management holding the charges on the respondent as proved. Hence, the respondent was dismissed from service. Therefore, the respondent has raised a dispute before the Labour Court, Salem. The Labour Court, Salem, allowed the petition by setting aside the order of the termination and further, directed the petitioner to reinstate the respondent in service with back wages and continuity of service. Challenging the said order, the present writ petition has been filed.



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3. The learned counsel for the petitioner submitted that the respondent was unauthorized absent from 03.11.2010 onwards. Without considering the gravity of the misconduct committed by the respondent, the Labour Court passed order in favour of the workmen, which is not sustainable one. The Labour Court, Salem has further held that the copy of the notices affixed on the notice board has not been produced and there is no evidence to substantiate the charges against the respondent. However, the petitioner Corporation has produced the copy of the attendance register to show the unauthorized absence of the respondent. The Labour Court, Salem has further erred in order back wages and continuity of service. Hence, the learned counsel prays that this Court may allow this writ petition.

4. The learned counsel for the petitioner further submitted that the petitioner is ready to reinstate the workmen without any backwages with continuity of service.

5. The learned counsel for the respondent submitted that after considering all the documents and witnesses, the Labour Court has allowed



the petition in favour of the respondent, which is perfectly in order and the same does not warrant any interference.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials available on record.

7. Admittedly, the petitioner was joined as driver in the petitioner Corporation in the year 2007. He was unauthorized absent from 03.10.2010 to 14.10.2011. For his unauthorized absent, the respondent was dismissed from service after getting approval. However, the respondent was rendering 5 years of service with the petitioner Corporation. For unauthorized absent, the petitioner was dismissed from service which is highly disproportionate. Further, the petitioner is come forward to reinstate the respondent without backwages.

8. In such circumstances, considering the service rendered by the respondent, this Court passes the following orders:

1. The respondent is not entitled for any backwages; and
2. The petitioner is directed to reinstate the respondent with continuity



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of service within a period of four weeks from the date of receipt of a copy of this order, failing which, the petitioner is directed to pay backwages for 25% from the date of dismissal till the date of reinstatement.

9. With the above direction, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

26.03.2025

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To

1. The Management,
Tamil Nadu State Transport Corporation
(Salem) Limited,
Dharmapuri Region,
Dharmapuri-5.

2. The Labour Court, Salem



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M.DHANDAPANI,J.

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