



W.A.(MD)No.116 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.12.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

W.A.(MD)No.116 of 2021

P.Ayyavu

... Appellant

Vs.

1.The Presiding Officer
Labour Court
Madurai - 20

2.The Management
State Express Transport Corporation
Tamil Nadu Ltd.,
Chennai through its General Manager
Chennai - 2

3.The Branch Manager
State Express Transport Corporation
Tamil Nadu Ltd.,
Madurai.

... Respondents

Prayer : Writ Appeal filed under Clause XV of Letters Patent, to allow the writ appeal by setting aside the order passed in W.P.(MD).No.2674 of 2014 dated 13.12.2019 on the file of this Court.



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For Appellant : Mr.S.Govindan

For Respondents : Mr.S.C.Herold Singh for R2 & R3

JUDGMENT
(By G.R.SWAMINATHAN, J.)

Heard both sides.

2. The appellant herein was appointed as Junior Tradesman in the respondent corporation in the year 1985. His services were regularized in the year 1987. He was unauthorizedly absent from 09.08.2001. After issuing charge memo on 13.08.2001 and holding domestic enquiry, the management dismissed the appellant from service on 25.01.2003. The appellant raised an industrial dispute. It was taken on file by the Labour Court in I.D.No.9 of 2011. The industrial dispute was partly allowed in favour of the appellant vide award dated 30.11.2011. The order of termination was set aside. The appellant was ordered to be reinstated with continuity of service(except the period from 25.01.2003 to March 2011). He filed W.P.(MD)No.2674 of 2014 questioning the award and sought backwages as well as continuity of service for the denied period.



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The learned Single Judge vide order dated 13.12.2019 dismissed the writ petition. Aggrieved by the same, this intra-court appeal has been filed by the employee.

3.The learned counsel appearing for the appellant raised the following contentions:-

(a) The misconduct attributed to the writ petitioner was unauthorized absence for five days. On the expiry of the five days' period, charge memo was issued. He was eventually dismissed from service also. Dismissing an employee from service for five days' unauthorized absence is grossly disproportionate and had been found to be illegal in a catena of decisions.

(b) It is true that the appellant moved the Labour Court after a gap of almost eight years. When the Labour Court chose to set aside the order of termination, while it could have denied backwages, it could not have denied continuity of service which could count for pensionary and other purposes.

c) The following decisions were referred to:-

(i) 2008 Writ L.R. 175 (P.Vasu Vs. Tamilnadu State Transport Corporation (Villupuram) Ltd.)



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(ii) (2002) 9 SCC 549 (Krishi Utpandan Manidi Samiti Vs. Aravind Chaubey and Another)

(iii) (2000) 9 SCC 496 (Gurmail Singh Vs. Principal Government College of Education and Others)

(iv) 2013 (1) LLN 328 (SC) (Ex-hav. Satbir Singh Vs. The Chief of the Army Staff, New Delhi and Another)

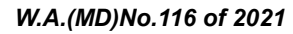
(v) 2017 – III – LLJ – 617 (Mad) (The Management of TNSCTC (Sale Division - I) Limited Vs. Presiding Officer and Another)

(vi) 2019 – II – LLJ – 313 (Mad) (S.Amulnathan Vs. Managing Director, TNSCTC (Villupuram) Limited)

(vii) W.A.(MD)No.1654 of 2016 dated 26.04.2017 (V.Boopathy Vs. The Management of TNSCTC (Madurai) Limited)

(viii) W.P.(MD)No.19818 of 2016 dated 27.09.2023 (S.Thukkamuthu Vs. The Presiding Officer, Labour Court, Madurai and Another).

4.Per contra, the learned standing counsel for the corporation submitted that the learned Single Judge as well as the Labour Court rightly approached the issue by taking into account the writ petitioner's conduct and that interference is not warranted.



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6. We are of the view that the appellant was lucky that the Labour Court chose to invoke its power under Section 11-A of the Industrial Disputes Act, 1947 and set aside the termination order and direct his reinstatement.

7. The learned counsel for the appellant kept on insisting that in the precedents relied on by him, the period of non-employment was directed to be counted for the purpose of terminal benefits and that the very same approach deserves to be adopted in this case also.

8. We want to remind the learned counsel that a judicial order can be cited as a precedent only for the ratio it has laid down. The Hon'ble Supreme Court in the decision reported in (2013) 15 SCC 414 (*Arasmeta Captive Power Co. (P) Ltd. v. Lafarge India (P) Ltd.*), held as follows:-

“**34.** In *Krishena Kumar v. Union of India* [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846] the Constitution Bench, while dealing with the concept of ratio decidendi, has referred to *Caledonian Railway Co. v. Walker's Trustees* [(1882) LR 7 AC 259 : (1881-85)]



All ER Rep 592 : 46 LT 826 (HL)] and *Quinn* [1901 AC 495 (HL)] and the observations made by Sir Frederick Pollock and thereafter proceeded to state as follows: (*Krishena Kumar case* [(1990) 4 SCC 207 : 1991 SCC (L&S) 112 : (1990) 14 ATC 846] , SCC pp. 226-27, para 20)

“20. ... The ratio decidendi is the underlying principle, namely, the general reasons or the general grounds upon which the decision is based on the test or abstract from the specific peculiarities of the particular case which gives rise to the decision. *The ratio decidendi has to be ascertained by an analysis of the facts of the case and the process of reasoning involving the major premise consisting of a pre-existing rule of law, either statutory or Judge-made, and a minor premise consisting of the material facts of the case under immediate consideration.* If it is not clear, it is not the duty of the court to spell it out with difficulty in order to be bound by it. In the words of Halsbury (4th Edn., Vol. 26, para 573):

‘The concrete decision alone is binding between the parties to it, but it is the abstract ratio decidendi, as ascertained on a consideration of the judgment in relation to the subject-matter of the decision, which alone has the force of law and which, when it is clear ... it is not part of a tribunal's duty to spell out with difficulty a ratio



decidendi in order to be bound by it, and it is always dangerous to take one or two observations out of a long judgment and treat them as if they gave the ratio decidendi of the case. If more reasons than one are given by a tribunal for its judgment, all are taken as forming the ratio decidendi.”

35. In *State of Orissa v. Mohd. Illiyas* [(2006) 1 SCC 275 : 2006 SCC (L&S) 122] it has been stated thus: (SCC p. 282, para 12)

“12. ... According to the well-settled theory of precedents, every decision contains three basic postulates: (i) findings of material facts, direct and inferential. An inferential finding of facts is the inference which the Judge draws from the direct, or perceptible facts; (ii) statements of the principles of law applicable to the legal problems disclosed by the facts; and (iii) judgment based on the combined effect of the above. A decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically flows from the various observations made in the judgment.”

36. In *Islamic Academy of Education v. State of Karnataka* [(2003) 6 SCC 697] the Court has made the following observations: (SCC p. 719, para 2)



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“2. ... The ratio decidendi of a judgment has to be found out only on reading the entire judgment. In fact, the ratio of the judgment is what is set out in the judgment itself. The answer to the question would necessarily have to be read in the context of what is set out in the judgment and not in isolation. In case of any doubt as regards any observations, reasons and principles, the other part of the judgment has to be looked into. By reading a line here and there from the judgment, one cannot find out the entire ratio decidendi of the judgment.” ”

Ratio decidendi is the rule acted on by the Court in the case. We must distinguish what a case decides generally and as against all the world from what it decides between the parties themselves. What it decides generally is the ratio decidendi or rule of law for which it is authority (Salmond on jurisprudence, 12th Edition).

9. In all the unreported orders relied on by the writ appellant's counsel, reliefs of some nature have been granted. But I am unable to discern any ratio in any of those orders. Mere grant of relief cannot be cited as a precedent to be followed in subsequent cases. It is the principle or proposition of law laid down in the earlier cases that have to be cited



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as ratio. We are constrained to deal with this elementary aspect because day in and day out, counsel flash some unreported order passed in some other case as a precedent to be followed. It is time the Bar discontinues this practice. Whenever an earlier decision is pressed into service, the counsel must be in a position to cull out the principle laid down therein and project that alone for our consideration. We do not find any merit in the writ appeal and it stands dismissed. No costs.

(G.R.S. J.) & (R.K.M. J.)
08.12.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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