



W.P.(MD) No.18668 of 2018 etc.,

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved On 03.04.2025	Orders Pronounced On 30.04.2025
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CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) Nos.18668 and 20386 of 2018
and W.P.(MD) No.5999 of 2019

and

W.M.P.(MD) Nos.16514 and 18148 of 2018
and W.M.P.(MD) No.4791 of 2019

W.P.(MD) No.18668 of 2018:

C.Irudhayaraj

... Petitioner

Vs.

1.The Management of Tamil Nadu
State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
Rep., by its Managing Director,
Karaikudi.

2.The Administrator,
Tamil Nadu State Transport Employees
Pension Fund Trust,
Thiruvalluvar Illam, Anna Salai,
Chennai-2.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Mandamus, directing the 1st respondent to pay the petitioner wages and other benefits payable for the period from 06.10.2015 i.e., the dated of the award to 30.04.2018 ie., the date of his retirement, apart from his terminal benefits by treating the entire period from 07.04.1986 to 30.04.2018 as his service period, together with 18 % interest p.a. and further directing the respondents to pay him pension benefits under TNSTCEPF rules by treating the entire period from 07.04.1986 to 30.04.2018, minus the period from 02.02.2011 to 06.10.2015, as his pensionable service period, including arrears of monthly pension from the month of May, 2018, together with 18% interest p.a.

For Petitioner : Mr.V.Ajaykohse
for Mr.S.Arunachalam

For Respondents : Mr.S.C.Heroldsingh

W.P.(MD) No.20386 of 2018:

Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Maruthapathy, Karaikudi,
Through its General Manager.

... Petitioner

Vs.

C.Irudhayaraj

... Respondent



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Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorari, to call for the records relating to the proceedings passed by the Labour Court, Madurai made in I.D.No.79 of 2014 dated 06.10.2015 and quash the same as illegal.

For Petitioner : Mr.P.Prabhakaran

For Respondent : Mr.V.Ajaykohse
for Mr.S.Arunachalam

W.P.(MD) No.20386 of 2018:

C.Irudhayaraj

... Petitioner

Vs.

The Management of Tamil Nadu
State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
Rep., by its Managing Director,
Karaikudi.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Certiorarified Mandamus, to call for the records pertaining to the award dated 06.10.2015 passed by the Labour Court, Madurai in I.D.No.79/2014, quash the same in so far as the finding holding that the petitioner was partially negligent to some extent for the accident and also in so far as denying and depriving him back wages and other attendant benefits and consequently direct the respondent to pay and grant



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him back wages and all other attendant benefits from the date of dismissal to the date of award, in addition to the relief of reinstatement with continuity of service already granted by the Labour Court in the above award and award costs.

For Petitioner : Mr.V.Ajaykohse
for Mr.S.Arunachalam

For Respondent : Mr.S.C.Herold Singh
Standing Counsel

COMMON ORDER

All these three writ petitions are between the same parties and in connection with the award dated 06.10.2015 passed in I.D.No.79 of 2014 on the file of the learned Labour Court, Madurai and as such all the three matters were heard together and are being disposed of by this common order.

2.1. The brief facts that are relevant for the disposal of this writ petition are as under:

2.2. The parties herein are referred to as they are arrayed in the first writ petition viz., W.P.(MD) No.18668 of 2018.



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2.3. The petitioner herein while working as Driver in the respondent-Corporation caused an accident resulting in death of a person, who was riding TVS 50 moped. In view of the same, the petitioner was subjected to disciplinary proceedings and after conducting an enquiry into the matter, the petitioner was dismissed from service by order dated 02.02.2011. Aggrieved by the same, the petitioner filed a petition before the learned Labour Court under Section 2A(2) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the I.D. Act”) and the same was taken on record as I.D.No.79 of 2014 by the learned Labour Court, Madurai.

2.4. The learned Labour having examined the matter in detail and in an elaborate manner, in all framed three issues for consideration, which read as under:

- “1. Whether the order of dismissal is justified?*
- 2. Whether the petitioner is entitled to the reliefs of reinstatement with continuity of service, ackwages and other attendant benefits?*
- 3. To what other reliefs, the petitioner is entitled?”*



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2.5. Issue Nos.1 and 2 were considered together and the learned

Labour Court came to the conclusion that the charges levelled against the petitioner were not proved, but his negligence was also responsible to the accident to some extent. Having arrived at such conclusion, the learned Labour Court felt that the punishment of dismissal imposed on the petitioner is too severe and exercised its discretion under Section 11A of the I.D.Act and passed Award dated 06.10.2015 directing reinstatement of the petitioner with continuity of service, but without backwages and other benefits. The said award was passed on 6th October, 2015. However, the said award was neither questioned nor given effect to by the respondent-Corporation till the petitioner attained the age of superannuation on 30.04.2018. It was thereafter, the petitioner herein filed W.P.(MD) No.18668 of 2018 seeking a writ of mandamus directing the respondent-Management to pay wages and other benefits payable for the period from 06.10.2015, i.e., the date of award till the date of attaining the age of superannuation, that is 30.04.2018 besides by settlement of terminal benefits for treating the entire period from 07.04.1986 to 30.04.2018 as his service period together with interest and to pay pension. It was only after the petitioner herein filed the said writ



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petition on 24th August, 2018, the respondent-Management has come forward to file W.P.(MD) No.20386 of 2018 on 19th September, 2018 challenging the award dated 06.10.2015. It was thereafter, the petitioner herein filed yet another writ petition vide W.P.(MD) No.5999 of 2019 challenging the award dated 06.10.2015 insofar as holding that the petitioner was also negligent to some extent for the accident and denying the backwages to the petitioner.

3. A perusal of the impugned award discloses that the learned Labour Court has taken into consideration every aspect of the matter besides taking into consideration the various decisions of this Court rendered under identical circumstances. The learned Labour Court also have taken into consideration the fact that the person who died in the accident in question was found to be in drunken condition, as the same is evident from the medical reports. However, the learned Labour Court came to the conclusion that the petitioner herein is also negligent to some extent. Having arrived at such conclusion, the learned Labour Court exercised its discretion under Section 11A of the I.D. Act.



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4. This Court while examining the validity of the impugned award at the instance of the petitioner and the Management, is only exercising the certiorari jurisdiction of this Court. It is now well settled that the certiorari jurisdiction of this Court can be exercised in limited and special circumstances, such as an order being passed without jurisdiction, perversity or acting in excess of jurisdiction etc. In the instant case, none of the said circumstances are subsisting warranting interference of this Court.

5. Be that as it may, the conduct of the parties also necessary to be examined while exercising the discretionary jurisdiction of this Court under Article 226 of the Constitution of India. The award in question was passed as early as on 06.10.2015. The petitioner herein has not chosen to question the said award and in a way accepted the said award and sought for implementation of the said award practically by filing W.P.(MD) No.18668 of 2018. It was only thereafter, the respondent-Management filed W.P.(MD) No.20386 of 2018. It is not known as to why the respondent-Management waited till the year 2018 for challenging the award dated 06.10.2015.



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Absolutely no explanation is offered in the affidavit filed in support of the writ petition as to why there was delay of about three years in filing the writ petition. Therefore, the writ petition filed by the respondent-Management is liable to be dismissed solely on the ground of delay itself, especially taking into consideration the fact that the petitioner has already attained the age of superannuation.

6. Then coming to W.P.(MD) No.5999 of 2019, filed by the petitioner challenging a portion of the award, the said writ petition is also liable to be dismissed, as the relief sought therein is diametrically opposite to the relief sought in W.P.(MD) No.18668 of 2018. Once the petitioner accepted the award dated 06.10.2015 and sought for implementation of the same by filing writ petition before this Court, the petitioner is estopped from challenging the said award by filing another writ petition. The petitioner appears to have filed the second writ petition *vide* W.P.(MD) No.5999 of 2019 only as a counterblast to the writ petition filed by the respondent-Management, though not really aggrieved by the same.



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7. In the light of the above, this Court is in full and complete agreement with the reasoning assigned by the learned Labour Court and does not see any reason to find fault with the said reasoning assigned by the learned Labour Court. Further, neither of the parties are also able to point out any defect or error in the impugned award. Added to the same, it is also brought to the notice of this Court that the criminal case that was instituted against the petitioner herein basing upon the very same accident was ended in acquittal by a judgment dated 19.06.2017. This is yet another reason which prevailed in the mind of the Court to confirm the award passed by the learned Labour Court.

8. In the light of the above, this Court does not see any reason to interfere with the impugned award and accordingly, the same is confirmed. Consequently, W.P.(MD) No.20386 of 2018 and W.P.(MD) No.5999 of 2019 are dismissed and W.P.(MD) No.18668 of 2018 is disposed of directing the respondent-Management to give effect to the impugned award and settle all the benefits including terminal benefits of the petitioner as expeditiously as possible, at any ate, within a period of eight weeks from the date of receipt



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of a copy of this order. There shall be no order as to costs. Consequently,
connected miscellaneous petitions are closed.

30.04.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

1.The Labour Court,
Madurai.

2.The Management of Tamil Nadu
State Transport Corporation (Kumbakonam) Ltd.,
Karaikudi Region,
Rep., by its Managing Director,
Karaikudi.

3.The Administrator,
Tamil Nadu State Transport Employees
Pension Fund Trust,
Thiruvalluvar Illam, Anna Salai,
Chennai-2.



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MUMMINENI SUDHEER KUMAR, J.

ABR

Pre-delivery Order made in
W.P.(MD) Nos.18668 and 20386 of 2018
and W.P.(MD) No.5999 of 2019

30.04.2025