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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.27198 of 2024

P.Ganesan

...Petitioner

Vs

The Management of Tamil Nadu State
Transport Corporation (Madurai) Limited,
Madurai Region,
Rep. by its Managing Director,
Madurai.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorarified Mandamus**, after calling for the records from the Labour Court, Madurai, relating to the impugned award dated 21.09.2023, in I.D.No.34 of 2015, quash the same and consequently to direct the respondent reinstate the petitioner in service with continuity of service, back wages and all other attendant benefits, award cost.

For Petitioner : M/s.S.Arunachalam

For Respondent : M/s.S.Raja
Standing Counsel

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ORDER

The present writ petition has been filed by a Driver of the respondent transport Corporation challenging the dismissal of his application filed under Section 2A of the Industrial Disputes Act, 1947, before the labour Court, Madurai, in I.D.No.34 of 2015.

2.The petitioner herein was appointed as a Driver in the respondent transport Corporation on 18.12.1998. The basic educational qualification required for being appointed as a Driver is a pass in SSLC. At the time of appointment, the petitioner has produced a SSLC mark statement as if he has passed all the papers in April 1990. When the said certificate was sent for verification to the educational authorities, it was found to be bogus.

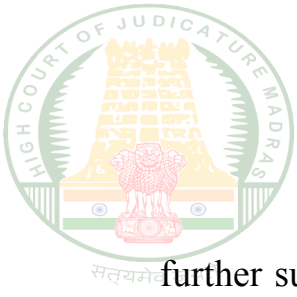
3.A charge memo was issued to the writ petitioner and after conducting domestic enquiry, the petitioner was dismissed from service on 23.05.2005. The dismissal order was put to challenge by the writ petitioner before the labour Court under Section 2A of the Industrial Disputes Act, 1947. The labour Court, after arriving at a finding that the petitioner has produced bogus SSLC mark statement, has proceeded to confirm the order of dismissal. Challenging the same, the present Writ Petition has been filed.



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4. According to the learned Counsel appearing for the writ petitioner, he had appeared for SSLC examination in April 1990, and he has failed in two subjects and reappeared in those two subjects in October 2019, and had cleared all the papers. He has further submitted that the petitioner has passed Higher Secondary examination in March 1993. However, at the time of appointment, he had produced SSLC mark statement to the effect that he has passed all the papers in a single attempt in April 1990. In fact, there was no occasion for him to produce the bogus SSLC mark statement in view of the fact that he has already cleared SSLC in October 1990.

5. The learned Counsel appearing for the writ petitioner has relied upon the Hon'ble Division Bench judgment of our High Court in ***W.P.No.29511 of 2002, batch cases, dated 20.02.2006, 2008 (4) LW 70, 2009 (4) CTC 158***, and the judgment of the Hon'ble Division Bench of our High Court in ***W.A.(MD)Nos. 1017 & 1018 of 2014, dated 23.12.2014***, to contend that in all those cases, where a bogus certificate was produced by mistake, but the employee was qualified to be appointed to the said post, the order of dismissal has been set aside by the Hon'ble Division Benches and a lesser punishment has been imposed. He has



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further submitted that the similar relief may be granted to the writ petitioner by setting aside the order of dismissal and for imposing lesser punishment.

6.Per contra, the learned Standing Counsel appearing for the respondent transport Corporation has submitted that once it has been found that the petitioner has produced a bogus SSLC mark statement, the employer has lost his faith on the employee. It is not the case of the workman that the mark statement is a genuine one. In such an event, when the charges as against the petitioner have been proved, only punishment that could be imposed upon the petitioner is dismissal from service. He has further submitted that the judgments referred to by the learned Counsel appearing for the writ petitioner are not applicable to the facts of the present case.

7.I have considered the submissions made on either side and perused the materials available on record.

8.It is not in dispute that the petitioner has produced a mark statement as if he has cleared all the papers in the SSLC examination in a single attempt in April 1990. It has been found to be a bogus document. However, the petitioner has



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cleared SSLC examination in October 1990. The petitioner has passed Higher Secondary Examination in April 1993. The petitioner has been appointed as a Driver only in the year 1998. The basic educational qualification required for being appointed as a Driver is, a pass in SSLC. Therefore, on the date when the petitioner was appointed, he had even acquired higher qualification than what was required for being appointed as a Driver.

9.The Hon'ble Division Bench in the judgment reported in **2008 (4) LW 70**. Paragraph Nos.6 to 8, is extracted as follows:-

“6.It is next contended by the learned Counsel for the petitioner that punishment imposed is grossly disproportionate and at any rate the petitioner could have been allowed to continue in the lower post as Flock Man by ordering reduction in rank as a punishment, which is also a major penalty.

7.There is no dispute that for the initial post in which the petitioner had been appointed, there was no requirement of passing SSLC. Passing of SSLC is required only for the promotion to the post of Veterinary Livestock Inspector. The petitioner claims that he had simply forwarded the mark sheet which he had received. It is not in dispute that a criminal case is pending and therefore the question as to whether the petitioner had knowingly utilised the false mark sheet would be decided in such criminal case. Incidentally the post held by the petitioner was very insignificant post of Flock Man.



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8.Keeping in view the fact there is no finding nor any material to indicate that the petitioner had knowingly submitted a false mark sheet and such question would be ultimately decided in the pending criminal case and taking into consideration the social strata from which the petitioner comes, we feel in the interest of justice that punishment of termination of service is required to be modified and instead we direct that the petitioner shall be reverted to the post of Flock Man and shall not be considered for promotion to any other post. As a consequence of such order, it is further directed that the period during which the petitioner has not worked, shall not be counted for any purpose.”

10.The Hon'ble Division Bench in ***W.P.Nos.29511 of 2002, batch cases, dated 20.02.2006***, has confirmed the order passed by the Administrative Tribunal imposing a punishment of stoppage of increment with cumulative effect after setting aside the order of dismissal. A learned Single Judge of this Court in the judgment reported in ***2009 (4) CTC 158***, has also set aside the order of dismissal for production of fake certificate and has proceeded to order reinstatement with continuity of service without backwages, after granting liberty to the Management to impose a lesser punishment for production of false certificate.



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11.Considering the fact that the petitioner was possessing required educational qualification when he was appointed as a Driver, this Court is of the considered opinion that the order of dismissal from service is highly disproportionate and he could be imposed with a lesser punishment. The petitioner is out of employment for the past 20 years. Therefore, non-payment of backwages or other attendant benefits for this 20 years period could be considered to be a punishment imposed upon the petitioner.

12.In the view of the above said deliberations, the order impugned in the writ petition as well as the order of dismissal passed by the Management are hereby set aside and the respondent transport Corporation is directed to reinstate the petitioner with continuity of service without backwages or other attendant benefits.

13.Accordingly, this Writ Petition stands Partly Allowed. No costs.

15.07.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

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To

The Managing Director,
The Management of Tamil Nadu State
Transport Corporation (Madurai) Limited,
Madurai Region,
Madurai.

W.P.(MD)No.27198 of 2024

15.07.2025