



W.P.(MD) No.19302 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

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and

W.M.P.(MD) No.15628 of 2017

The General Manager
State Express Transport Corporation
Tamil Nadu Ltd.,
Pallavan Salai, Chennai

... Petitioner

-VS-

1.The Presiding Officer
The Labor Court
Tirunelveli

2.Kovilpitchai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari calling for the records relating to the impugned award passed by the first respondent Labour Court in I.D.No.21/2016, dated 15.11.2016 and quash the award insofar as that portion of the award in favour of the second respondent that he must be deemed to have worked from



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28.05.2013 till his date of retirement in March 2016 for the limited purpose of calculating and paying his retiral benefits for that period alone and he must be paid retiral benefit for that period alone is concerned alone.

For Petitioner : Mr.K.Sathiya Singh

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R1
Mr.D.Srinivasaragavan for R2

ORDER

This writ petition has been filed by the Transport Corporation aggrieved by the award dated 15.11.2016, passed by the learned Labour Court, Tirunelveli, in I.D.No.21 of 2016, whereby the learned Labour Court, while holding the period of absence with effect from 21.04.2012 to 28.05.2013 as unauthorized absence, interfered with the order of punishment of dismissal from service, on the ground of disproportionate punishment, especially taking into consideration the fact that the second respondent has completed 27 years of service in the petitioner – Transport Corporation.

2. It is not in dispute that the second respondent, while travelling in a bus as a spare driver on 13.03.2012, met with an accident and sustained



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injuries and thereby, the petitioner – Corporation sanctioned medical leave to the second respondent from 13.03.2012 to 20.04.2012. It was thereafter the second respondent could not join duty 21.04.2012 onwards till 28.05.2013. It was the said period which was treated as unauthorized absence. It is not a case where the second respondent has not submitted any leave application for grant of leave for the said period. But, according to the petitioner – Transport Corporation, the second respondent has not submitted medical certificate for sanction of medical leave.

3. Be that as it may, if it is assumed that in case if the second respondent was absent for the said period *viz.*, from 21.04.2012 to 28.05.2013 without sanction of leave, unless it is alleged that the said absence of the second respondent is willful amounting to misconduct, the action of the petitioner – Transport Corporation imposing the punishment of dismissal from service, that too after the second respondent has put in 27 years of long service, certainly cannot be treated as proportionate to the alleged misconduct. That is what is now held by the learned Labour Court under the impugned award. The learned Labour Court, having treated the period from 21.04.2012 to 28.05.2013 as unauthorized absence, thought it fit to deny backwages for the period from 28.05.2013 till 31.03.2016, the date on which



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the second respondent attained the age of superannuation, however directed counting of the said period only for the purpose of fixation of pension. Thus, the learned Labour Court has exercised its discretion in a very reasonable and appropriate manner in exercising its power conferred under Section 11A of the Industrial Disputes Act, 1947. In view of the same, this Court is fully satisfied and agrees with the reasonings assigned by the learned Labour Court in the impugned order and does not see any reason to interfere with the same.

4. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2025

(1/2)

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

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To:
The Presiding Officer,
Labour Court,
Tirunelveli.



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MUMMINENI SUDHEER KUMAR, J.

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