



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.29464 OF 2004

AND

WMP.NO.30864 OF 2003

1. Inayathullah (Deceased)
2. Askarijohn
3. Jaheer Abbas
4. Nazeema

... Petitioners

-vs-

1. The Presiding Officer,
Labour Cour, Salem
2. The Management of Tamilnadu,
State Transport Corporation Ltd.,
(Salem Division - I)
Ramakrishna Nagar,
Salem-7.

... Respondents

(Petitioners 2 to 4 substituted as per order dated 14.08.2019 by VMVJ in WMP.No.22560 of 2019 in W.P.No.29464 of 2004)

PRAYER: Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the award dated 21.01.2003 in I.D.No.180 of 2000 passed by the 1st respondent in so far as denying the petitioner continuity of service, back wages and others attendant benefits, quash the same and consequently direct the 2nd respondent to reinstate the petitioner with continuity of service, backwages and other attendant benefits, award costs.

For Petitioners : Mr.V.Ajay Khose

For Respondents : Mr.K.Thangam
for Mr.D Raghu



ORDER

This writ petition has been filed by the Employee / 1st Respondent (deceased) herein, challenging the order dated 21.01.2003 passed by the Respondent/Authority in I.D.No.180 of 2000, by which, the Employee was ordered to be reinstated without continuity of service, back wages and other attendant benefits.

2. When the matter is taken up for hearing it is represented that the employee expired in the year 1995 and legal heirs were already brought on record and the offer made by the Management falls under the clause 2(iii) of the proposal given by the Government vide Letter No.5370/C2/2021, dated 24.07.2021, which reads as follows:-

2. There were 283 cases, except TNSTC (MDU) placed before the Board for discussion. After detailed deliberations, the following decisions were taken:

(iii) In respect of Ex-employees who expired during litigation, to proceed to settle the eligible death cum retirement benefits to the legal heirs of the deceased workman (upto the date of death or date of retirement whichever is earlier) by treating the non-employment period as 'No Work No Pay' and also the Legal Heirs shall not claim for appointment under compassionate grounds.

3. It is no doubt true that past records can be relied upon to establish the charges, provided present charges are proved. As held by the Labour Court, though there was negligent on the part of the Employee in discharging his duties, he had not caused any financial loss to the Management. Labour court, in exercise of powers under Section 11-A of the I.D.Act, 1947, converted the punishment of dismissal from service into the one of denial of continuity of service, back wages and other attendant benefits. The Supreme Court in the case reported in AIR 1964 SC 477 (Syed Yakoob vs. K.S.Radhakrishnan). followed by Kerala High court in Instrumentation Employee's Union vs. Labour Court, Kozhikode, reported in 1993 (I) LLN 75, clearly held that a finding of fact rendered by the Labour Court cannot be interfered with, unless or otherwise there is perversity. Though this Court do not find any perversity in the award of the Labour Court, it is seen that the Employee was dismissed from service on 27.01.1999 and the present Writ Petition has been filed as early as in 2004.



4. At this Juncture, it is represented by the learned Standing Counsel for the Management that the Management has now agreed to extend the entire benefits of the legal heirs of the deceased in terms of the aforesaid Clause, which has been duly accepted by the legal heirs of the deceased.

5. Considering the submissions made on either side and taking note of the aforesaid Clause offered by the Management to the legal heirs of the deceased employee, the benefits shall be extended to the legal heirs, if they are otherwise eligible as per the rules in enforce and the entire past services of the Employee, excluding the period during which time he was not in employment, namely, from the date of dismissal till the date of award, shall be counted for the purpose of grant of benefits to the legal heirs. It is also made clear that, the legal heirs of the deceased Employee are not entitled to any appointment on compassionate ground in the 2nd Respondent/Transport Corporation.

6. With the above observation and direction, this Writ Petition is disposed of. No Costs Consequently, connected W.M.P.No.30864 of 2003 is closed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

dpq

To

1. The Presiding Officer,
Labour Court, Salem
2. The Management of Tamilnadu,
State Transport Corporation Ltd.,
(Salem Division - I)
Ramakrishna Nagar,
Salem-7.

+1cc to Mr.D Raghu, Advocate, S.R.No.37468

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and WMP.No.30864 of 2003

PMK (CO)
RLP (07/12/2021)