



W.P.(MD)No.17495 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.17495 of 2018

and

W.M.P.(MD)No.15375 of 2018

G.Anthony Muthu

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Nagarcoil Region,
Ranithottam,
Nagercoil.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the entire records leading to the issue of the punishment order passed by the second respondent in proceedings 3061//legal-11/olungu/Tha.A.Po.Ka/2007 dated 04.12.2007 and the award dated 24.06.2016 passed by the 1st respondent in I.D.No.81/2015 confirming the punishment order passed by the 2nd respondent and quash the same



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and further direct the 2nd respondent to settle all service and monetary benefits of the petitioner from the date of issuing the punishment order dated 04.12.2007 and also to treat the petitioner's suspension period 13.09.2005 to 27.10.2005 as duty period.

For Petitioner : Mr.A.Thirumurthy
For R-1 : Labour Court
For R-2 : Mr.K.Sathiyasingh,
Standing Counsel

ORDER

This writ petition is filed to quash the impugned award dated 24.06.2016 passed by the 1st respondent in I.D.No.81/2015 and further direction to the 2nd respondent to settle all service and monetary benefits of the petitioner from the date of issuing the punishment order, dated 04.12.2007 and also to treat the petitioner's suspension period 13.09.2005 to 27.10.2005 as duty period.

2. Heard Mr.A.Thirumurthy, learned counsel appearing for the petitioner and Mr.K.Sathiyasingh, learned Standing Counsel appearing for R-2. Perused the material documents available on record.



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3. The petitioner was serving as Conductor in Chennai and joined service on 05.02.1988 and transferred to Marthandam Depot on 01.06.1995. On 12.09.2005, the petitioner was on duty at about 10.20 a.m., the Control room in-charge T.Swarnaraj, Control Room staff Harindranath and the Branch Manager (in-charge) stopped the bus and collected the tickets from the passengers alighting from the bus and then entered into the bus and collected the tickets from the passengers inside the bus.

4. The contention of the petitioner is that they did not inspect the Way Bill and Journey Bill and did not enquire the passengers. They did not issue any irregularity memo to the petitioner and no statement was recorded from the passengers. At about 10.20 a.m., the petitioner remitted the cash collected at the Depot, but the petitioner was refused duty for the next trip. On 14.09.2005 only the petitioner came to know that he was suspended on 03.09.2005. A charge memo, dated 20.09.2005 was issued alleging that the petitioner was in possession of 3 old tickets during inspection of the ticket bundles by the Checking Inspector in the presence of the Branch Manager and the Control Room staff. In the white paper, the Checking Inspector was writing the details of all the tickets, crushed



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and tore away the said three tickets so that their numbers were not seen. Moreover the petitioner had caused injury to the hand of the checking inspector by twisting his hand. Out of the tickets collected from the passengers, 3 tickets of value of Rs. 3/-each were found to be not issued by the Marthandam Depot and hence the petitioner had sold the old tickets fraudulently during duty and has caused revenue loss to the Corporation, breach of trust and committed misconduct as per No.16(5) of the Corporation standing orders. The petitioner has submitted an explanation. The enquiry officer hold that the charges were proved. The petitioner was imposed with punishment of stoppage of increment for two years with cumulative effect and treated the suspension period as eligible leave. Aggrieved over the same, the petitioner has raised an industrial dispute in I.D.No. 81 of 2015 after the failure of Conciliation proceedings before the Labour Officer, Tirunelveli.

5. The further contention of the petitioner is that the petitioner never ever assaulted the Checking Inspector and it is a concocted story. Moreover, the Checking Inspector did not check the tickets inside the bus and collected only tickets from the passengers, who left from the bus. Moreover, the petitioner was



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in possession of tickets which was issued only by the Corporation. The petitioner further submits that the tickets obtained from the passengers for inspection were not issued by the petitioner and if they were found to be old tickets, it ought to have been held by Checking Inspector that the passengers have travelled with old tickets and the appropriate fine amount ought to have been collected from the passengers as per Motor Vehicle Rules. The addresses of the passengers who are carrying the old tickets were not obtained. No enquiry or statement was recorded from the passengers. The Inspection report was not served to the petitioner and the petitioner was not issued any irregularity memo at the spot, which clearly proves that the petitioner has not committed any crime. The Labour Court has confirmed the punishment and hence the petitioner is before this Court.

6. The respondents have filed counter stating that the petitioner has threatened the checking inspector and twisted his hand. The petitioner has sold the tickets to passengers and had collected back for the purpose of resale, which is illegal act. Hence disciplinary proceeding was initiated. The respondents have granted adequate opportunity to the petitioner. The tribunal has considered the evidence and held there is no violation of principles of natural justice. Moreover,



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the punishment is appropriate. Hence, the respondents pray to dismiss the writ petition.

7. On perusal of the I.D. order, there is no discussions to the issues raised by the petitioner, which is evident from the order of the I.D. where it is stated as under:

.....

□இதற்கு விளக்கம் அளித்த நடத்துனர், தான் பழைய பயணச்சீட்டுக்கள் எதனையும் கையில் வைத்திருக்கவில்லை, அவ்வாறு கையில் வைத்திருந்தால் ஆய்வாளர்கள் ஏறிய உடன் அதனை கீழே போட்டிருக்க வாய்ப்பிருக்கிறது. அத்துடன் பயணிகளுக்கு வழங்கிய சீட்டுகளில் 3 பயணச்சீட்டுகள் வேறு பேருந்து சம்மந்தப்பட்டவைகள் என்பதற்கும், தனக்கும் சம்பந்தமில்லை. மேற்படி பயணிகள் தாங்கள் ஏற்கனவே பிரயாணம் செய்யும்போது வாங்கிய பயணச்சீட்டுக்களை தவறுதலாக கொடுத்திருக்கவும் வாய்ப்பிருக்கிறது. அந்த பயணிகளை விசாரிக்காது, வாக்குமூலம் வாங்காது. அந்த பயணச்சீட்டுக்களை தான் கொடுத்ததாக கூறுவது தவறு என்றெல்லாம் ஆட்சேபனை எழுப்பியிருக்கிறார்.□

The management witness has deposed before the enquiry officer that the petitioner was having the three old tickets, three tickets were in possession of the



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passengers, the inspection officer has not taken any written statement from the passengers, the passengers were not enquired in the presence of the petitioner, the petitioner was not issued with memo. But the Labour Court having extracted the grounds raised by the petitioner, but has not discussed the grounds raised by the petitioner.

8. Moreover, the petitioner has raised that the respondent management is having vindictive motive against the petitioner and the same was not taken into account by the Labour Court. Further, the Labour Officer accepted that there are some irregularities in the enquiry proceedings, but has not taken into consideration while deciding the case.

9. Since the enquiry proceeding was not conducted properly this Court is inclined to interfere in the punishment order. Having held that the enquiry is not conducted properly, the case ought to be remitted back to the authorities to conduct properly or to the Labour Court. But the same would take another few years, since the petitioner is on the verge of retirement, this Court in the interest of justice is modifying the punishment from with cumulative effect to



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without cumulative effect.

10. Therefore, the respondent shall modify the punishment of stoppage of increment for two years without cumulative effect and grant the consequential benefits to the petitioner. The said exercise shall be completed within a period of eight weeks from the date of receipt of the copy of the order.

11. With these modifications, this Writ Petition is disposed of. No Costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
Internet : Yes
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To

The Presiding Officer,
Labour Court,
Tirunelveli.



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S.SRIMATHY, J

ksa

**Order made in
W.P.(MD)No. 17495 of 2018**

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