



W.P(MD)No.2661 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2026

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.2661 of 2023
and
W.M.P(MD)No.2428 of 2023

The Administration,
Tamil Nadu State Transport Corporation,
No. 27, Railway Station New Road,
Kumbakonam.

... Petitioner

Vs

D.Ramadoss

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire record pertaining to the impugned preliminary award dated 12.02.2020 as well as impugned final award dated 11.03.2020, on the file of the Labour Court, Kumbakonam dated 12.02.2020 and quash the same as illegal.

For Petitioner : Mr.P.M.Vishnuvarthanan

For Respondent : Mr.A.Rahul



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ORDER

The present Writ Petition has been filed challenging the preliminary award dated 12.02.2020 passed in I.D. No.126 of 2018 by the Labour Court, Kumbakonam, as well as the final award dated 11.03.2020.

2.The learned counsel appearing for the petitioner Transport Corporation submitted that the respondent entered the services of the petitioner Corporation as a Driver in the year 1992. During the course of his service, he had committed 78 instances of misconduct, out of which 45 related to unauthorised absence. Appropriate disciplinary action had been initiated on each occasion and punishments were imposed.

3.It is further submitted that the respondent remained continuously absent from duty for a period of 485 days, from March 2014 to June 2015, without obtaining prior permission or sanctioned leave. Consequently, the petitioner Corporation initiated disciplinary proceedings



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by issuing a charge memo. A domestic enquiry was conducted after affording the respondent adequate opportunity to defend himself. Upon the Enquiry Officer holding the charges proved, a second show cause notice was issued and, after considering the respondent's explanation, the disciplinary authority passed an order dated 04.02.2016 dismissing him from service.

4. Aggrieved by the order of dismissal, the respondent raised an industrial dispute only in the year 2018 in I.D.No.126 of 2018 before the Labour Court, Kumbakonam. Though the Labour Court, by its preliminary award dated 12.02.2020, upheld the fairness and validity of the domestic enquiry, it subsequently, by the final award dated 11.03.2020, modified the punishment of dismissal into stoppage of increment for one year with cumulative effect, with consequential service benefits. Challenging the said modification of punishment, the present Writ Petition has been filed.



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5.The learned counsel for the petitioner further submitted that the respondent was a habitual absentee and had remained unauthorisedly absent on several occasions during his service. Out of the 45 instances of unauthorised absence, disciplinary proceedings had been initiated and punishments were imposed on 21 occasions. The present misconduct relates to continuous unauthorised absence for 485 days, which remained wholly unexplained. It is contended that the Labour Court failed to appreciate the respondent's past service record and the gravity of the misconduct while interfering with the punishment imposed by the disciplinary authority.

6.The learned counsel also submitted that the order of dismissal was passed on 04.02.2016, whereas the industrial dispute came to be raised only on 03.12.2018, after a delay of nearly two years. During the interregnum, the respondent neither rendered any service nor challenged the dismissal. It is further submitted that after the award of the Labour Court, the respondent was not reinstated into service, but was paid wages under Section 17-B of the Industrial Disputes Act, and he ultimately attained the age of

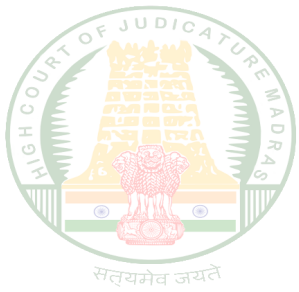


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superannuation on 31.03.2022. Therefore, it is contended that the respondent is not entitled to claim back wages for the period from 04.02.2016 till 03.12.2018, namely, the date on which the industrial dispute was raised. The learned counsel fairly submitted that, although dismissal may appear to be a harsh punishment for unauthorised absence, this Court may suitably modify the punishment by imposing an appropriate lesser punishment.

7.Per contra, the learned counsel appearing for the respondent submitted that the Labour Court interfered with the punishment solely on the ground that the punishment of dismissal for the misconduct of unauthorised absence was disproportionate. It is submitted that the respondent has already retired from service and the dispute now substantially relates to the computation of his terminal benefits. The learned counsel left it to the discretion of this Court to impose an appropriate punishment in substitution of the order of dismissal.



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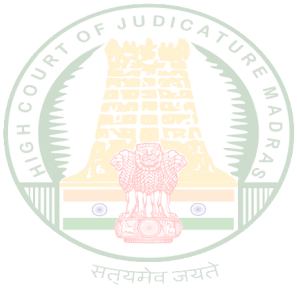
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8.In ***Prem Nath Bali v. High Court of Delhi***, reported in **(2015)**

16 SCC 415, the Hon'ble Supreme Court has held as follows:

"20. It is a settled principle of law that once the charges levelled against the delinquent employee are proved, it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, the findings of the Inquiry Officer, the entire service record of the delinquent employee and all other relevant factors, exercises its discretion and imposes the punishment as provided under the Rules.

21. Once such discretion is exercised by the appointing authority in imposing the punishment (whether minor or major), the Courts are slow to interfere with the quantum of punishment and only in rare and appropriate cases substitute the punishment. Such power is exercised only when the Court finds that the punishment imposed is wholly unreasonable, arbitrary or disproportionate to the gravity of the proved charges, thereby shocking the conscience of the Court, or when it is found to be contrary to the Rules. In such cases, the Court may remit the matter to the appointing authority for imposing an appropriate punishment or may itself substitute the punishment instead of remitting the matter."



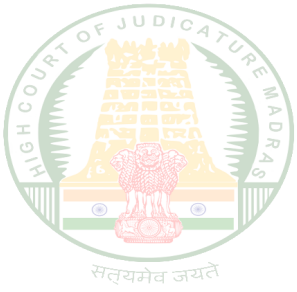
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9.This Court has carefully considered the rival submissions and perused the materials available on record.

10.It is not in dispute that the domestic enquiry has been held to be fair and proper by the Labour Court in its preliminary award. The respondent has also not disputed the charge of continuous unauthorised absence for 485 days. It is further evident from the records that the respondent had a history of repeated unauthorised absence during his service and had suffered punishments on several earlier occasions. Therefore, the past service record could not have been ignored while considering the proportionality of the punishment.

11.At the same time, considering that the respondent has already attained the age of superannuation and the Labour Court has found the punishment of dismissal to be disproportionate, this Court is of the view that the ends of justice would be met by modifying the punishment suitably



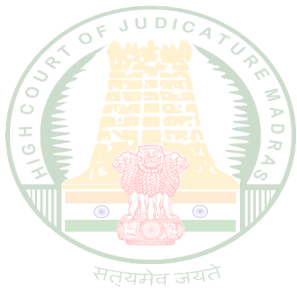
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12. Accordingly, the punishment imposed by the disciplinary authority and modified by the Labour Court is further modified, and the respondent shall suffer the punishment of stoppage of increment for a period of three years with cumulative effect.

13. This Court is also of the considered view that the respondent is not entitled to any back wages for the period from 04.02.2016, the date of dismissal, till 03.12.2018, the date on which the industrial dispute was raised, since he had not challenged the dismissal during the said period and had not rendered any service.

14. However, the respondent shall be entitled to continuity of service for the limited purpose of calculating his retiral and terminal benefits, subject to the punishment of stoppage of increment for three years with cumulative effect as ordered above.



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15.The petitioner Transport Corporation is directed to recalculate the respondent's terminal and retiral benefits by giving effect to the above punishment and excluding the back wages for the period from 04.02.2016 to 03.12.2018, and settle the admissible terminal benefits in favour of the respondent within a period of twelve (12) weeks from the date of receipt of a copy of this order.

16.With the above modification, the Writ Petition stands allowed in part. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes / No
Index : Yes / No
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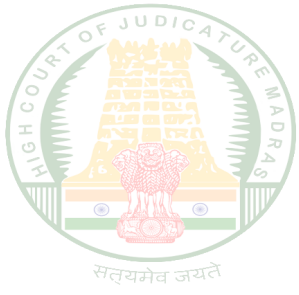
The Labour Court,

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