

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: **30.03.2016**

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11326 of 2011

The Managing Director
Metropolitan Transport Corporation Ltd.
Pallavan Salai, Chennai 600 002.

.. Petitioner

Versus

1.The Presiding Officer
III Additional Labour Court
Chennai.

2.R.Yogesan

..Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, to call for the records relating to I.D.No.653 of 2001 dated 27.8.2010 on the file of the first respondent herein and quash the same.

For Petitioner :Mr.T.Chandrasekaran

For Respondents :Mr.K.M.Ramesh - R2

ORDER

Heard Mr.T.Chandrasekaran, learned counsel appearing for the petitioner and Mr.K.M.Ramesh, learned Counsel appearing for the second respondent and with the consent of the learned counsel appearing on either side, the Writ Petition is taken up for final disposal.

2.This Writ Petition has been filed by the Management of the Metropolitan Transport Corporation, Chennai, challenging the Award of the III Additional Labour Court, Chennai, in I.D.No.653 of 2001 dated 27.8.2010.

3(i) The brief facts are that the second respondent was working as a Driver in the respondent Corporation and it appears that during December 1999, he developed severe back pain, which he attributes was due to the nature of employment in driving the long distance buses. Therefore, the workman sought for assigning light duty and it is stated that for a short spell of time, the petitioner was permitted to drive buses in the Depot of the petitioner Corporation. Subsequently, the petitioner was asked to drive long distance buses, which according to him aggravated his back pain and he was taking treatment in Government and Private Hospitals. That lead to his absence from duty from 12.12.1999, which resulted in issuance of a charge memo dated 03.04.2000. The explanation offered by the workman was not accepted by the Management.

(ii) Domestic enquiry was conducted, in which the respondent/workman had clearly spoken about his health condition and also produced the medical records before the enquiry officer. There was no cross examination done on the deposition of the

respondent/workman. However, the enquiry officer held that the charges were proved and based on which a second show cause notice was issued on 05.08.2000 and the respondent/workman submitted his reply on 31.08.2000 and the Management being not satisfied with the explanation, by an order dated 05.12.2000, dismissed the second respondent from service.

(iii) The said order of dismissal was assailed by the respondent/workman by raising a dispute before the Labour Court in I.D.No. 653 of 2001. Before the Labour Court, the workman examined himself as W.W.1 and marked 11 documents as Exs.W1 to W11 and on behalf of the Management one Mr. V.Paneerselam, was examined as M.W.1 and 17 documents were marked as M1 to M17.

(iv) The Labour Court, after considering the factual scenario recorded a finding that the workman at the earliest point of time reported that he was unwell and his health condition lead to his absence. That apart, the Labour Court noticed that before the enquiry officer, the workman had produced the medical records to establish that he was under intensive treatment in the Government Hospital and thereafter in a Private Hospital. The said fact was not denied by the Management, since the workman was not cross examined on that aspect before the enquiry officer.

4. In such scenario, if the Management had a doubt with regard to the veracity of the statement made by the workman regarding his health condition, they ought to have referred to him to the Medical Board. However, that was not done by the Management. Those aspects have been clearly highlighted by the Labour Court in the impugned Award.

5. Thus, in the absence of any perversity and as the Award passed by the Labour Court is cogent and the reasons are valid and proper, no grounds have been made by the petitioner/Management to interfere with the impugned Award.

6. Accordingly, the Writ Petition fails and the same is dismissed. It is seen that pursuant to the interim order granted on 02.02.2011, the workman has been paid a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only). Therefore, , if any further amount is to be paid to the respondent/workman pursuant to this order, the said amount shall be adjusted from the terminal benefits which are payable to the respondent/workman. No costs.

30.03.2016

rpa

T.S.SIVAGNANAM, J.,

r p a

To

- 1.The Presiding Officer
III Additional Labour Court
Chennai.

W.P.No.11326 of 2011

30.03.2016