

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.03.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.22708 of 2009

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram Division III) Ltd.,
Kancheepuram 631 501.

...Petitioner

Vs.

1 The Presiding Officer,
Principal Labour Court,
Chennai.

2. Mr.A.Panneerselvam

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the first respondent, pertaining to the award passed in I.D.No.365 of 2001, dated 21.10.2008, on the file of the first respondent and to quash the same.

For Petitioner : Mr.M.Chidambaram

For Respondent-2 : Mr.K.M.Ramesh

O R D E R

Heard Mr.M.Chidambaram, the learned counsel appearing for the petitioner and Mr.K.M.Ramesh, the learned counsel appearing for second respondent.

2. The petitioner is the Management of Tamil Nadu State Transport Corporation, Villupuram Division III Ltd., Kancheepuram, and the challenge in this Writ Petition is to the award passed by the first respondent/Principal Labour Court, Chennai, in I.D.No.365 of 2001, dated 21.10.2008.

3. The second respondent/workman was employed as a conductor by the petitioner-Management, and, when the disciplinary action was initiated against him, he has completed 22 years of service. The charges levelled against the second respondent-workman are, i) he has not issued tickets and not

collected the fair from a lady passenger, ii) Invoice has not been properly filled up and iii) Resale of tickets, which had been issued during the previous trip. The Labour Court, after considering the factual matrix of the case, by its award, dated 21.10.2008, held that the domestic enquiry conducted by the Management was fair and proper, but, while considering the punishment of dismissal of the workman from service, the Labour Court held that the punishment is shockingly disproportionate to the charges committed by him, and interfered with the said punishment, and ordered reinstatement with continuity of service and other attendant benefits, without granting backwages. This award is assailed in this Writ Petition.

4. As could be seen from the findings recorded by the Labour Court, there were certain reasons for the Labour Court for being satisfied with the enquiry officer's findings on charge Nos.i and ii. However, with regard to charge No.iii), viz., the resale of tickets, the Labour Court did not make any endeavour to examine as to whether there was evidence for the domestic Enquiry Officer to hold that charge No.iii is proved. Therefore, to that extent, the Labour Court award is perverse. However, taking into consideration the over all circumstances of the matter, the reasons assigned by the Labour Court is germane and proper, and there is no perversity in the approach of the Labour Court, and the award being a reasoned award, this Court, while exercising power under Article 226 of the Constitution of India, will not re-examine the factual position, nor, would act as an Appellate Court over the factual finding recorded by the Labour Court. Furthermore, the workman has completed 22 years of service, and it appears that he had not suffered any serious misconduct in the past. Thus, the award, denying backwages itself, is a major punishment for the workman. In the light of the above, no grounds have been made by the petitioner-Management to interfere with the award passed by the Labour Court.

5. In the result, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(AS)

//True Copy//

Sub Assistant Registrar

To

The Presiding Officer,
Principal Labour Court,
Chennai.

+1cc to M/S.M.Chidambaram, Advocate, S.R.No.16507

+1cc to Mr.K.M.Ramesh, Advocate, S.R.No.16536

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ppa (CO)
srg (04/04/2016)



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