

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH  
AND  
THE HONOURABLE MR. JUSTICE RMT.TEEKA RAMAN

W.A.No.1411 of 2013

R.Baskar

... Appellant

Vs

1. The Management,  
Tamil Nadu State Transport Corporation  
(Salem Division-II), Limited,  
Salem Main Road,  
Bharathipuram,  
Dharmapuri-5.

2. The Presiding Officer,  
Labour Court, Salem.

.... Respondents

Prayer : Writ Appeal filed under Clause 15 of the Letter Patent against the order dated 31.03.2011 made in W.P.No.11089/2004 by a learned Single Judge.

WP.No.11089/2004: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records dated 16.06.2003 and made in ID.No.291/02 on the file of the Labour Court, Salem the second respondent herein and quash the same.

For Appellant :: Mr.L.Chandrakumar

For 1st Respondent :: Mr.P.Parmasivadoss

JUDGMENT

(Judgment of the Court was pronounced by HULUVADI G.RAMESH, J.)

The Writ Appeal is directed against the order dated 31.03.2011 made in W.P.No.11089/2004 by a learned Single Judge.

2. The Writ Petition has been filed by the petitioner seeking to issue a Writ of Certiorarifi, calling for the records dated 16.6.2003 made in I.D.No.291 of 2002 on the file of the Labour Court, Salem, the 2<sup>nd</sup> respondent herein and quash the same

and pass such further or other orders.

3. The case of the petitioner is that he was appointed as a Conductor by the 1<sup>st</sup> respondent on 23.05.1990 and on 9.11.2001, when he was working as a Conductor in the bus bearing No.TN-29-N-1103, plying between Hosur to Tiruvannamalai, the bus was checked at 12.00 Noon at Guntharampalli Cross Road by the Checking Inspector of the 1<sup>st</sup> respondent Corporation. At that time, the Checking Inspector found that a passenger, who got down in Kuntharampalli Cross Road, was in possession of the ticket for travelling from Hosur to Krishnagiri for Rs.12/- . The said passenger informed the Checking Inspector that he was travelling only from Soolagiri to Kuntharampalli and has paid only a sum of Rs.6.50/- for the ticket. But the petitioner has issued a ticket for Hosur to Krishnagiri at the value of Rs.12/- to him. The Checking Inspector also found that the petitioner was having Rs.4.25/- shortage in the collection.

4. The further case of the petitioner is that a charge memo dated 26.12.2001 was issued by the 1<sup>st</sup> respondent on the petitioner stating that he has received the ticket from the passenger who got down in the middle and reused th same to another passenger who boarded at Soolagiri, by receiving a sum of Rs.6.50 from the subsequent passenger and he was found to have shortage amount of Rs.4.25 in his collection bag. The ticket given to the subsequent passenger was valued at Rs.12/- whereas a sum of Rs.6.50 was collected being the actual price payable by him. Thereafter, the petitioner has not accounted the said amount and misappropriated the same, apart from not giving a proper explanation for the shortage of amount of Rs.4.25. Thereafter, an enquiry was conducted and the Enquiry Officer has submitted his Report dated 25.2.2002 and in pursuant to the Show Cause Notice as well as the reply of the petitioner, an order of dismissal was passed by the 1<sup>st</sup> respondent on 5.4.2002. Aggrieved over the same, the petitioner raised an Industrial Dispute in I.D.No.291/2002 before the 2<sup>nd</sup> respondent and the same was dismissed by the 2<sup>nd</sup> respondent on considering the evidence on record. Challenging the same, the petitioner has preferred the Writ Petition. After hearing both sides, the learned Single Judge of this Court by order dated 31.3.2011 dismissed the Writ Petition, since no perversity was found in the Award of the 1<sup>st</sup> respondent. Questioning the correctness of the said order of the Single Judge of this Court, the present Writ Appeal has been filed.

5. Though so many grounds have been raised in the affidavit filed in support of the Writ Appeal, when the matter is called today, the learned Counsel appearing for the appellant submitted that the appellant is alleged to have committed the misconduct of reissuing the ticket of Rs.12/- second time to subsequent passenger for the ticket value at Rs.6.50 by

collecting the same from the passenger, who was dropped in the middle and not accounting the same and thereby, for the misappropriation of the shortage amount of Rs.4.25, after holding an elaborate departmental enquiry, the appellant was dismissed from service on 5.4.2002. Now, the grievance of the appellant is that he has already reached the age of superannuation. Hence, the learned Counsel for the appellant would pray to consider his case positively at least for pension.

6. Learned Counsel appearing for the 1<sup>st</sup> respondent submitted that it was not the first time that the appellant has indulged in such an activity and in an earlier occasion also, in an identical charge, punishment was imposed on him.

7. Considered the submissions made by the learned Counsel for the appellant as well as learned Counsel appearing for the 1<sup>st</sup> respondent and we have also carefully gone through the materials placed on record.

8. Considering the facts and circumstances of the matter and also taking into account the submission now made by the learned Counsel for the appellant, more particularly, the fact that the appellant has already reached the age of superannuation, we are of the view that the order of dismissal passed against the appellant shall be treated as Compulsory Retirement and since it is submitted that the appellant has worked for nearly 12 years, calculating his period of service, a proportionate pension, if as per the rules of the Transport Corporation, he is entitled to, shall be awarded to him from 1.12.2017 onwards by the 1<sup>st</sup> respondent with other pensionary benefits for the period which he has rendered service.

9. With the above directions, the Writ Appeal is disposed of. No costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

tsi

To

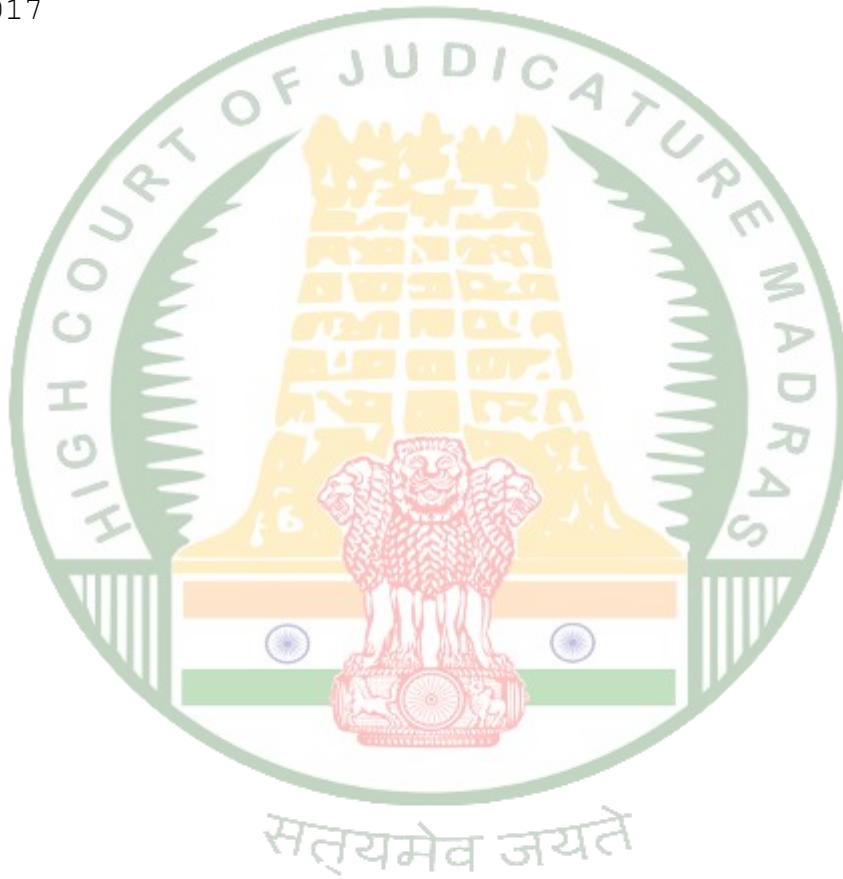
1. The Management,  
Tamil Nadu State Transport Corporation  
(Salem Division-II), Limited,  
Salem Main Road, Bharathipuram,  
Dharmapuri-5.

2. The Presiding Officer,  
Labour Court, Salem.

+1 cc to Mr.L.Chandrakumar Advocate sr 82721

W.A.No.1411/2013

kgk(co)  
aa15/12/2017



WEB COPY