

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2017

CORAM:

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH  
and  
THE HON'BLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1944 of 2013  
and  
M.P.No.1 of 2013 and  
C.M.P.No.19192 of 2016

Tamil Nadu State Transport Corporation (Salem) Ltd.,  
Rep. by its Managing Director,  
Salem. .... Appellant/Writ Petitioner

.. Vs ..

1. The Presiding Officer,  
Labour Court,  
Salem.

2. T.Durairaj .... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent,  
against the order dated 17.08.2010 passed by this Court in  
W.P.No.9795 of 2006.

W.P.No.9795 of 2006:-

Praying to call for records of the 1<sup>st</sup> Respondent in  
ID.No.162 of 2001 dated 08.02.2005 and quash the same.

For Appellant : Mr.P.Paramasiva Doss  
For R-1 : Tribunal Court  
For R-2 : Mr.S.Ayyathurai

JUDGMENT

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

Heard the learned counsel appearing for the parties for some  
time.

2. The writ petition in W.P.No.9795 of 2006 has been filed by the appellant-Transport Corporation praying for issuance of a Writ of Certiorari, calling for the records of the first respondent-Labour Court in I.D.No.162 of 2001, dated 08.02.2005 and to quash the same.

3. It appears that after collecting excess fare of Rs.21/- from six persons, tickets were not issued by the second respondent herein, who was working as a Conductor in the appellant-Transport Corporation and hence, the second respondent herein was dismissed from service. Thereafter, the second respondent herein has filed I.D.No.162 of 2001 before the first respondent-Labour Court and the Labour Court passed an award, modifying the punishment of dismissal from service and imposed a lesser punishment of withholding of increment for one year with cumulative effect and while ordering for reinstatement with continuity of service backwages were denied. The order passed by the first respondent-Labour Court was taken up by the appellant-Transport Corporation before this Court in W.P.No.9795 of 2006 and the learned Single Judge has dismissed the said writ petition, confirming the award passed by the first respondent-Labour Court. Challenging the correctness of the order passed by the learned Single Judge, the Transport Corporation has preferred the present writ appeal.

4. It appears that the allegation against the second respondent herein is with regard to misconduct of not issuing tickets to the tune of Rs.21/- after collecting the fare from six persons and misappropriating the said amount. In the enquiry, charges were found to be proved and consequently, the second respondent was dismissed from service by the appellant-Transport Corporation and the said order of dismissal was subsequently modified by the first respondent-Labour Court to one of withholding of increment for one year with cumulative effect and while ordering for reinstatement with continuity of service, backwages were denied.

5. After going through the records and also taking into account the nature and gravity of the charges levelled against the second respondent, we feel that the quantum of punishment imposed by the disciplinary authority dismissing the second respondent from service is excessive. At the same time, the order modifying such quantum of punishment by the first respondent-Labour Court is found to be lesser since the same is not in commensurate with the charges. Hence, we are of the view that the interest of justice will be met by modifying the order of the learned Single Judge to one of withholding of increment for two years with cumulative effect instead of withholding of increment for one year with cumulative effect and all other aspects will remain unaltered.

6. With the above modification, the Writ Appeal is allowed in part. No costs. The connected miscellaneous petitions are closed.

Sd/-  
Deputy Registrar

//True Copy//

Sub Assistant Registrar

Jrl

To

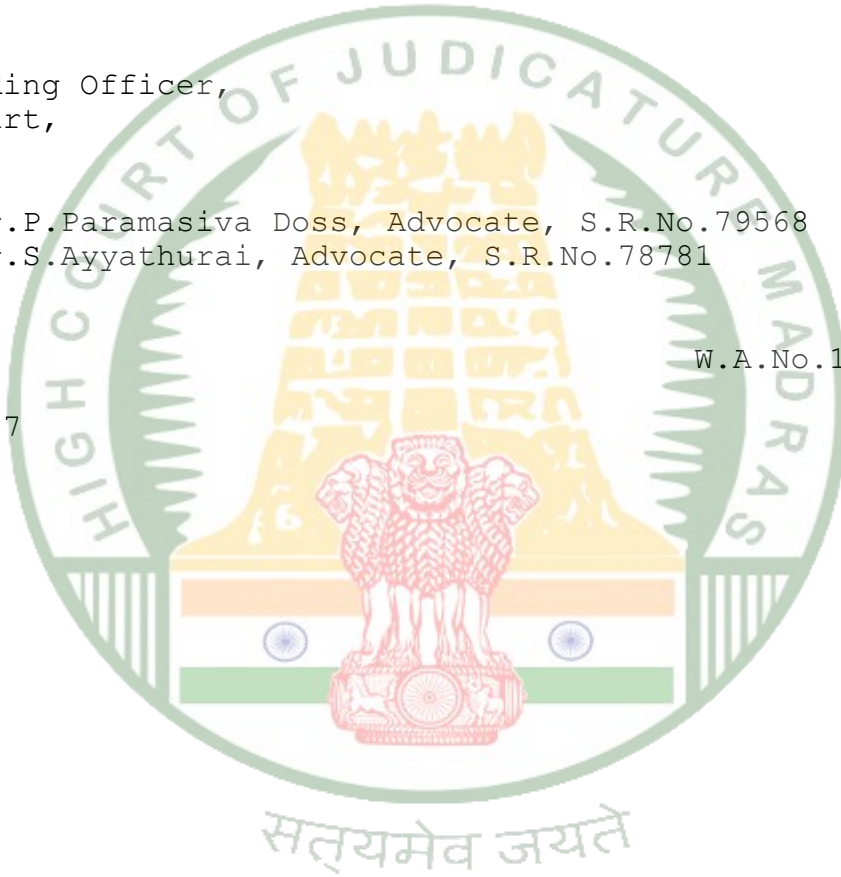
The Presiding Officer,  
Labour Court,  
Salem.

+1cc to Mr.P.Paramasiva Doss, Advocate, S.R.No.79568

+1cc to Mr.S.Ayyathurai, Advocate, S.R.No.78781

W.A.No.1944 of 2013

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