

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED : 21.11.2017****C O R A M**

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESSAVALU**W.P. (MD) No.5097 of 2011****and****W.M.P. (MD) No.1 of 2011**

The Management,
Tamil Nadu State Transport Corporation
(Madurai Division - V) Ltd.,
(Now known as Tamil Nadu State
Transport Corporation (Madurai) Ltd.,
Virudhunagar.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
District Court Building, Madurai - 20.

2. The General Secretary,
State Transport Workers Union (C.I.T.U.),
6/662, Lakshmi Nagar, Madurai Road,
Virudhunagar - 626 001.

... Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India, to issue a writ of Certiorari, calling for the records of the 1st respondent in the proceedings in I.D. No.96 of 2007 dated 26.04.2010 and quash the same.

For Petitioner : Mr.A.Jeyaram
1st Respondent : Court
For 2nd Respondent : Mr.S.Arunachalam

ORDER

This Writ Petition challenges the award of Labour Court/First Respondent dated 26.04.2010 in I.D. No.96 of 2007.

2. Heard Mr.A.Jeyaram, the learned counsel appearing for the petitioner and Mr.S.Arunachalam, the learned counsel appearing for the second respondent.



3.The second respondent had raised an industrial dispute in I.D.No.96 of 2007 before the first respondent, aggrieved by the order of punishment imposing withholding of increment for one year with cumulative effect in respect of three workmen, viz., G.Palani Selvam, P.Chellakannu and S.Pasupathy on the ground that the Standing Orders do not provide for awarding such punishment. The first respondent accepted their contention and set aside of order of punishment.

4.The learned counsel for the petitioner Transport Corporation submits that as per clause (2) of Standing Order No.17 of the Petitioner Transport Corporation, the employer may withhold the increment due to a workman, if he is on an incremental scale or demote him to a lower post and hence the finding of the Labour Court is against law and is an error on the face of record.

5.This Court finds justification in the submission made by the learned counsel appearing for the petitioner, which cannot be disputed by the learned counsel for the second respondent, except to the extent that the Standing Orders does not provide cumulative effect while awarding such punishment. The Labour Court having rightly arrived at the conclusion that the charges against the three workmen had been proved in the domestic enquiry, the commensurate punishment that has to be imposed upon them in terms of clause (2) of Standing Order No.17 of the Petitioner Transport Corporation, in the instant case would be to withhold increment for one year without cumulative effect.

6.Accordingly, the impugned award dated 26.04.2010 in I.D.No.96 of 2007 passed by the Labour Court/First Respondent against the three workmen, viz., G.Palani Selvam, P.Chellakannu and S.Pasupathy is set aside, and the order of punishment dated 26.05.2003 imposed by the Petitioner to the effect of withholding the increment due to them for a period of one year is restored with the modification that



it shall be without any cumulative effect. The Writ Petition is partly allowed on the aforesaid terms. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

1. The Presiding Officer,
Labour Court,
District Court Building,
Madurai - 20.

+1cc to M/S.S.ARUNACHALAM, Advocate SR.No.88851.

W.P. (MD) No.5097 of 2011
21.11.2017

sj

SDS/SV:MMS/SAR 4/06.12.2017/3P/3C