

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2018

CORAM :

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1640 of 2010

D.H.Syed Kasim ... Appellant

Vs.

1. The Presiding Officer,
Labour Court, Salem.
2. The Management of Tamil Nadu State
Transport Corporation Ltd.,
Bharathipuram, Salem Salai,
Dharmapuri - 636 705. ... Respondents

Prayer: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order dated 08.06.2010 in W.P.No.18033 of 2001.

WP.NO.18033/2001:

Writ Petition filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the preliminary and final award passed in ID.No.760/98 dated 15.11.2000 and 26.06.01 by the 1st respondent, quash the same and to direct the 2nd respondent to reinstate the petitioner with continuity of service and backwages and all other attendant benefits and award costs.

For Appellant : Mr.S.T.Varadarajulu
For Respondents: Ms.Rajeni Ramadoss for R2
R1 - Court

JUDGMENT

[made by P.VELMURUGAN, J.]

This writ appeal has been filed against the order dated 08.06.2010 in W.P.No.18033 of 2001.

2. It is to be stated that the appellant was employed as a Driver in the second respondent/Corporation. While he was on

duty, the bus, which was driven by him, met with an accident on 23.10.1995. Large number of passengers and the appellant got injured and one of the passengers succumbed to the injuries, for which the appellant was issued with a charge memo dated 01.11.1995. The appellant submitted his explanation on 06.11.1995, denying the charges. The second respondent/ Corporation, being not satisfied with the explanation dated 06.11.1995, initiated departmental enquiry against the appellant. After completing the enquiry and on the basis of the report given by the Enquiry Officer, second show cause notice dated 02.02.1996 was issued, for which the appellant submitted his explanation on 20.02.1996. Finally, the second respondent rejected the claim of the appellant and dismissed him from service by order dated 16.07.1996.

3. Aggrieved by the order of dismissal dated 16.07.1996, the appellant raised an industrial dispute before the Labour Court, Salem in I.D.No.760/1998. The labour Court, after hearing the arguments advanced on either side, passed a final award dated 26.06.2001, wherein it was held that the punishment of dismissal imposed on the appellant is just and proper.

4. Assailing the award dated 26.06.2001 passed in I.D.No.760 of 1998, the appellant filed a writ petition before this court in W.P.No.1803 of 2001.

5. The learned Single Judge, after hearing the arguments on either side and after perusing the materials placed before it, dismissed the writ petition by order dated 08.06.2010.

6. We have heard the learned counsel appearing for the appellant and the learned standing counsel appearing for the second respondent/ Corporation and perused the typed set of papers filed in support of the appeal.

7. On a perusal of materials placed before us, it reveal that during the enquiry made by the second respondent/Corporation, two witnesses were examined. M.W.1 was the conductor of the bus and M.W.2 was the Assistant Engineer, who inspected the place of accident. The appellant examined himself as W.W.1. The enquiry officer in his report dated 06.01.1996 stated that the charges levelled against the appellant are proved. The labour Court upheld the validity of the enquiry as well as the enquiry report.

8. Further, the appellant did not challenge the enquiry proceedings initiated by the second respondent/Corporation and also did not cross examine the M.W.2 Assistant Engineer, who inspected the place of accident & submitted his report. Hence both the Labour Court and the writ Court have concurrently held that the punishment imposed on the appellant i.e. dismissal from service was just and fair.

9. In view of the above discussion, we are of the considered view that the learned Single Judge has rightly dismissed the writ petition filed by the appellant by giving valid reasons. There is no illegality or infirmity in the order passed by the learned Single Judge. The appellant has not made out any valid reason to interfere with the order dated 08.06.2010 made in W.P.No.18033 of 2001. There is no merit in the appeal preferred by the appellant.

10. In the result, the writ appeal stands dismissed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The Presiding Officer,
Labour Court, Salem.
2. The Management of Tamil Nadu State
Transport Corporation Ltd.,
Bharathipuram, Salem Salai,
Dharmapuri - 636 705.

+1cc to Ms.Rajeni Ramadoss, Advocate sr.no.16207

+1cc to Mr.S.T.Varadarajulu, advocate sr.no.16433

W.A.No.1640 of 2010

kgk(co)
nr 21/06/2018

सत्यमेव जयते

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