

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Judgment 30.01.2018	Date of Pronouncing Judgment 05.03.2018
--	--

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE P. VELMURUGAN

Writ Appeal No.2258 of 2013 and

N.R.Natarajan

... Appellant

Vs.

1. Tamil Nadu State Transport Corporation,
Rep. by its Managing Director,
Head Office, Mettupalayam Road,
Coimbatore,
Coimbatore District.

2. The General Manager,
Tamil Nadu State Transport Corporation,
Coimbatore Regional Office,
Erode Division,
Erode, Erode District.

3. Labour Court,
Salem, Salem District.

... Respondents

PRAYER: The Writ Appeal filed under Clause 15 of Letters Patent, this Court prays to set aside the order of this Court made in W.P.No.35429 of 2004, dated 24.07.2013, and to allow the said Writ Petition filed against the award of the Labour Court salem made in I.D.No.97 of 1996 dated 17.12.1997.

WP.No.35429 of 2004:Writ petition filed under Article 226 of the constitution of India to issue a writ of certiorarified mandamus to call for the records relating to the award of the labour court, Salem in I.D.No.97/96 dated:17.12.1997 quash the same and direct the 1st respondent to reinstate the petitioner in service with backwages and all other attendant benefits.

For Appellant : Mr.S.Ayyadurai
For RR 1&2 : Mr.P.Kannankumar
For R3 : Labour Court

J U D G M E N T

(Order of the Court was made by P.VELMURUGAN, J.)

This Writ Appeal is directed against the order dated 24.07.2013 in W.P.No.35429 of 2004, wherein, the learned Single Judge upheld the award passed by the Labour Court, Salem, dismissing the Industrial Dispute, and confirmed the dismissal of the appellant.

2. The appellant was working as a conductor in the Tamil Nadu Transport Corporation, Coimbatore Division. The first respondent initiated disciplinary proceedings against the appellant. While, the appellant was on duty on 25.06.1995, the Checking Inspectors intercepted the bus at Perumanallur, in which, the appellant was a conductor, and the Checking Inspectors collected as many as four tickets from the passengers. In the said tickets, the amount collected from the passengers viz., Rs.14/- was mentioned but the place from where they travelled and the destinations were not mentioned. The invoice was also not duly filled up.

3. According to the Management, the intention of the appellant was to fill up the duplicate in the ticket book subsequently, to his own whims and fancies to misappropriate the funds. The appellant was called to give explanation and in his explanation, it was stated that the pen, which he was having, fell down and it could not be retrieved. Therefore, he filled up the tickets with refill and he issued the same to the passengers. Since the tickets were filled up only with the refill, the impression of the carbon did not fall on the duplicate ticket books. The explanation offered by the appellant was not satisfactory to the Management, and hence, the Management appointed an Enquiry Officer to conduct enquiry. The Enquiry Officer, after due enquiry, held that the charges framed against the appellant were proved, and based on the said enquiry report, the appellant was dismissed from service.

4. Aggrieved by the dismissal order passed by the Management, the appellant raised Industrial Disputes, before the Labour Court, Salem, which was taken on file and assigned I.D.No.97 of 1996. The main points raised by the appellant before the Labour Court was that, enquiry was not held in a fair and proper manner. The Labour Court, based on the evidence placed before it, both Oral and Documentary, and after going through the enquiry report submitted by the Enquiry Officer, found that the enquiry was held in a fair and proper manner, and that the charges framed against the appellant have been proved. The Labour Court dismissed the Industrial Dispute raised by the appellant.

5. Aggrieved against the award of the Labour Court, in ID No.97/1996, dated 17.12.1997, the appellant filed a Writ

Petition before this Court in W.P.No.35429/2004. The learned Single Judge considered the entire materials placed on record, i.e., report of the enquiry proceedings held by the Management; the award passed by the Labour Court and the grounds raised by the appellant in the Writ Petition and found that there was no reason to interfere with the findings rendered by the Labour Court and dismissed the Writ Petition.

6. Aggrieved over the order passed by the learned Single Judge, the appellant has preferred the present Writ Appeal mainly on the ground that the finding of the Enquiry Officer and the Labour Court were not based on the material evidence.

7. We have heard the learned counsel appearing for the appellant and the learned counsel appearing for the respondent/Management.

8. The appellant's contention is that, his intention to defraud the Management has not been proved by the respondent and the Management also failed to appreciate the explanation given by him before the Enquiry Officer. Therefore, the order passed by the learned Single Judge, in W.P.No.35429 of 2004, dated 24.07.2013 is liable to be set aside.

9. It is not in dispute that the appellant was working as a conductor in the first respondent/Transport Corporation. It is also not in dispute that when the appellant was on duty on 25.06.1995, the Checking Inspector intercepted with the bus and collected some tickets from the passengers. Similarly, it is the admitted case that the amount collected from the passengers viz., Rs.14/- was mentioned in the tickets but the place from where they travelled and the destinations were not mentioned. The invoice was also not duly filled up. The appellant submitted that since he used only a refill, the impression of the carbon did not fall on the duplicate in the ticket book. This was not accepted by the Enquiry Officer, the Labour Court and also the Writ Court. The Management after conducting enquiry, dismissed the appellant from service by order dated 17.12.1997. The appellant initiated Industrial Dispute before the Labour Court. The Labour Court found that the enquiry was conducted in a fair and proper manner and having found that there was no violations of the principles of natural justice, ultimately, confirmed the order passed by the Disciplinary Authority, viz., the Management and dismissed the I.D.No.97 of 1996. The learned Single Judge based on the entire materials available on records, arrived at a conclusion that there were materials before the Labour Court to give a finding with regard to the nature of enquiry conducted against the appellant, and dismissed the Writ Petition. The reasons assigned by the Labour Court are cogent and convincing. The evidence placed before the Labour Court by the Management was properly appreciated. There is no perversity in the approach of the Labour Court.

10. The Labour Court is the final court of facts. The Labour Court in the subject case analyzed the entire evidence collected by the Management and materials produced by the appellant and arrived at a factual conclusion that the enquiry was conducted in a fair manner. The finding recorded by the Labour Court on the basis of evidence cannot be set aside by exercising the power of judicial review and that too by re-appreciating the materials. We are therefore of the view that the appellant has not made out a case to interfere with the order passed by the learned Single Judge.

11. In the result, the Writ Appeal is dismissed. Consequently, connected Civil Miscellaneous Petition is closed.

msm/t

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. Tamil Nadu State Transport Corporation,
Rep. by its Managing Director,
Head Office, Mettupalayam Road,
Coimbatore, Coimbatore District.
2. The General Manager,
Tamil Nadu State Transport Corporation,
Coimbatore Regional Office,
Erode Division, Erode, Erode District.
3. Labour Court,
Salem, Salem District.

+1cc to Mr.S.Ayyathurai, Advocate SR.No.16431
+1cc to Mr.P.Kannan kumar, Advocate Sr.No.16856

GMR(CO)
sm:26.3.2018

WEB COPY

Judgment
in
Writ Appeal No.2258 of 2013