

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 01.03.2018
Coram

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

W.A.No.275 of 2013
and M.P.No.1 of 2013

Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Vellore Region
Vellore 632 009
Rep by its General Manager ... Appellant / Petitioners

Vs.

1.A.E.Budhakumar
2.The Principal Labour Court
Vellore, Vellore District. ... Respondents / Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 14.08.2012 made in W.P.No.22151 of 2012, on the file of this Court. Petition is filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, calling for the records in connection with the order in I.D.NO.132 of 2009 dated 19/11/2011 on the file of the Principal Labour Court, Vellore the 2nd respondent herein and quash the same.

For Appellant : Mr.A.Anilan
for Mr.P.Paramasiva Doss
For R1 : Mr.S.T.Varadarajulu

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The appellant initiated disciplinary proceedings against the first respondent on the ground that he indulged in a wordy altercation with the Manager. The Management, after conducting domestic enquiry, dismissed the first respondent from service by order dated 14 March, 2007. The matter was taken up before the Labour Court in I.D.No.132 of 2009.

2. Before the Labour Court, an issue was framed as to whether the enquiry was conducted in a fair and reasonable manner. The Labour Court, after giving a factual finding with

regard to the fairness of the enquiry, directed the Management to adduce evidence to show that there was evidence to prove the misconduct.

3. The Labour Court passed an Award holding that the charge was proved. However, by invoking Section 11-A of the Industrial Disputes Act, the Labour Court set aside the punishment and modified it into one of reinstatement without back wages, but with continuity of service. The Management also imposed a punishment of withholding increment for a period of two years with cumulative effect. The Award was challenged before the writ court in W.P.No.22151 of 2012.

4. The learned Single Judge dismissed the writ petition on the ground that it would not be legally permissible for the High Court to analyse the evidence collected by the Management and scrutinised by the Labour Court once again by exercising the power of judicial review. The writ petition was dismissed. Feeling aggrieved, the Tamil Nadu State Transport Corporation has come up with this intra court appeal.

5. We have heard the learned counsel for the appellant. We have also heard the learned counsel for the first respondent.

6. The appellant issued a charge memo to the first respondent on the ground that he indulged in a wordy altercation with the Branch Manager. The Management, after conducting enquiry, dismissed the first respondent from service. The issue was taken up before the Principal Labour Court, Vellore in I.D.No.132 of 2009.

7. The Labour Court, after giving a finding that the enquiry was not conducted in a fair manner and there was violation of the principles of natural justice, permitted the Management to examine M.W.1 once again to prove the charge framed against the first respondent. The Labour Court thereafter considered the punishment imposed on the first respondent on eight occasions earlier and arrived at a finding that the Management was correct in initiating enquiry and punishing the first respondent. Thereafter, the punishment imposed by the Management was considered by the Labour Court. The Labour Court was of the view that the punishment was disproportionate to the misconduct alleged against the first respondent. The Labour Court by invoking Section 11-A of the Industrial Disputes Act, modified the punishment. The Labour Court directed the Management to reinstate the first respondent into service without back wages. The Labour Court imposed a further punishment of withholding of increment for two years with cumulative effect.

8. It is a matter of record that the first respondent on

attaining the age of superannuation retired on 21 May, 2017.

9. The core question is as to whether this Court would be justified in re-appreciating the materials which were considered by the Labour Court by invoking Section 11-A of the Industrial Disputes Act.

10. The Legislature has given power to the Labour Court to consider the proportionality of the punishment and interfere, in case, the punishment is disproportionate to the charges framed against the workmen. In the subject case, such an exercise was undertaken by the Labour Court. It is not within the province of this Court to re-appreciate the reasons given by the Labour Court being the final Court of facts and to arrive at a different finding with regard to punishment. We are, therefore, of the view that the learned Single Judge was justified in dismissing the writ petition.

The intra court appeal filed by the Management is dismissed. We direct the Management to pay the terminal benefits to the first respondent as expeditiously possible and in any case, within a period of three months from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

gms

Sd/-

Assistant Registrar

/TRUE COPY/

Sub-Assistant Registrar

To

1 The General Manager
Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Vellore Region
Vellore 632 009

2 The Principal Labour Court,
Vellore, Vellore District.

+1CC to Mr.S.T.Varadarajulu Advocate SR.NO.15984

+1CC to M/S.A.Antony Arockiaraja Advocate SR.NO.16243

W.A.No.275 of 2013

SJ[CO]

MK:27/03/2018