



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 16.03.2018
DELIVERED ON : 04.06.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.1656 of 2014 and
M.P.(MD)No.1 of 2014 and
W.M.P.(MD)Nos.12386 & 12387 of 2016

The Management of Tamil Nadu,
State Transport Corporation,
(Kumbakonam Division-II) Limited,
Trichy.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Trichy.

2. S.Duraiaraj

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for records in I.D.No.136 of 2001, dated 23.03.2011, on the file of the Labour Court, Trichy and quash the same.

For Petitioner : M/s.Pamelin,
for Mr.B.Pugalendi.
For R-2 : Mr.G.Purushothaman
For R-1 : Labour Court

O R D E R

The petitioner is a Public Transport Corporation. The second respondent herein was employed as Conductor. On 01.12.1999, when he was on duty in the route Thogamalai to Musiri, the checking inspectors found that a male passenger was travelling without ticket. The said passenger had boarded the bus at Kulithalai and paid a sum of Rs.2.25/- for the journey up to Musiri Periyarpalam. But the second respondent was said to have misappropriated the amount that belonged to the Corporation. He was issued with a charge sheet on 08.12.1999. The second respondent submitted his explanation, dated 21.12.1999. An enquiry was conducted. The enquiry officer submitted his report, dated 02.02.2000 finding



that the second respondent was guilty of the charges framed against him.

2. Second show cause notice was issued. The second respondent was dismissed by order dated 19.04.2000. The second respondent raised an industrial dispute and it was taken on file as I.D.No.136 of 2001 on the file of the Labour Court, Trichy. By the impugned award, dated 23.03.2011, the Labour Court held that the punishment of the dismissal was grossly disproportionate to the nature of misconduct. It directed the reinstatement of the second respondent with continuity of service. However, backwages were denied. The punishment of increment cut for a period of two years with cumulative effect was substituted in the event of the punishment of the dismissal. The said award is under challenge in the Writ petition.

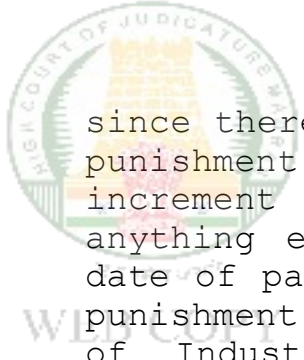
3. Heard the learned counsel on either side.

4. The petitioner Corporation had admittedly received the award granted by the Labour Court, on 26.09.2011. But it chose to challenge the same by filing this Writ petition only in January 2014.

5. The second respondent was appointed as Conductor in the petitioner Corporation only in July 1998. The incident in question occurred on 01.12.1999. The defence of the second respondent is that the passenger in question boarded the bus outside Kulithalai bus stand and asked for ticket to Musiri which is at a distance of 3 Kilometers. The second respondent has fairly admitted that the passenger had paid a fare amount of Rs.2.25/-. By the time, the bus reached the place Periyarpalam, the said passenger saw the other bus which he was intending to catch. Therefore, even without waiting to receive the ticket, he got down abruptly. He was then stopped by the checking inspectors. The checking inspectors found that there was an excess amount of 31.25/- in the cash bag.

6. The explanation of the second respondent was that it was meant for giving change to the passengers. The second respondent had not admitted the fairness of the domestic enquiry. The only question is whether the charges were rightly held to be proved. The second respondent examined himself as a witness before the Labour Court. He took a specific stand that only when the bus reaches Musiri bus stand, the invoice would be completed. The distance between Kulithalai and Periyarpalam, will take around 4 minutes to cross. The second respondent had issued around 11 tickets in the meanwhile and also filled in the invoice.

<https://hcservices.courts.gov.in/hcservices> 7. The Labour Court after taking into account all these circumstances, came to the conclusion that the second respondent did not have any intention to commit misappropriation. However,



since there was some lapse on his part, it chose to substitute the punishment of dismissal with the punishment of postponement of increment for two years without cumulative effect. More than anything else, the denial of backwages from 19.04.2000 till the date of passing of the award, namely, 23.03.2011, is itself a big punishment. This is a case in which discretion under Section 11(A) of Industrial Disputes Act has been exercised. This Court exercising its jurisdiction under Article 226 of the Constitution of India is of the view that no case for interference is made out.

8. In this view of the matter, there is no merits in the Writ petition and the same stands dismissed. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court,
Trichy.

*Pre-Delivery Order
made in*

W.P. (MD) .No.1656 of 2014 and

M.P. (MD) No.1 of 2014 and

W.M.P. (MD) Nos.12386 & 12387 of 2016

04.06.2018

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