



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2018

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CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 6442 of 2014

The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Madurai Road,
Virudhunagar.

.. Petitioner

Vs.

1. The Special Deputy Commissioner of Labour,
O/o. of the Commissioner of Labour,
Chennai - 600 006.

2. K.Durai Pandi

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for records of the first respondent in Proceedings in Approval Petition in A.P.No.441 of 2012, dated 14.06.2013, quash the same.

For Petitioner : Mr. A.Jeyaram
For Respondent No. 1 : Mrs. S.Srimathy
Special Government Pleader
For Respondent No. 2 : Mr. G.M.Xavier

O R D E R

Heard the learned Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondent No.1.

2. The second respondent herein is employed as a Conductor in Tamil Nadu State Transport (Madurai) Corporation, Virudhunagar. He was suspended from service on 28.01.2010. He was issued with a charge memo alleging that on 08.01.2010, he was found to have received a sum of Rs.4 from the passenger and issued used old



ticket. The allegation is that the second respondent herein committed misappropriation of a sum of Rs.4. The petitioner was dismissed from service by order dated 31.05.2012. Thereafter the petitioner Corporation filed an Approval Petition before the first respondent under Section 33 (2) (b) of Industrial Act, 1947. The petition was taken on file as A.P.No.441 of 2012. By impugned order dated 14.06.2013, the approval was declined and the same is under question in this writ petition.

3. The learned Counsel appearing for the petitioner/Management contended that the first respondent exceeded his jurisdiction and erred in not granting the approval. This Court went through the contents of the impugned order. The first respondent has stated that during domestic enquiry the passenger to whom the employee issued used old ticket was not examined as witness. No such steps were taken in this regard by the management. The first respondent took the view that there was not even a prima facie case against the delinquent employee.

4. As rightly contended by the learned Counsel appearing for the employee, the first respondent is entitled to see whether the prima facie case for dismissal based on legal evidence adduced in the domestic enquiry was made out. In this case, the first respondent has held that no such prima facie case was made out. Exercising jurisdiction under Article 226 of Constitution of India, this Court is not inclined to interfere with the discretion exercised by the first respondent. There is no merit in this Writ petition.

5. This Writ Petition stands dismissed. No costs.

Sd/-

Assistant

Registrar

(T&P)

/True Copy/

Sub Assistant Registrar

To:

The Special Deputy Commissioner of Labour,
O/o. of the Commissioner of Labour,
Chennai - 600 006.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 58933

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TE/RSK/SAR-3 : 04/05/2018 : 2P/3C



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ORDER MADE IN
W.P. (MD) .No.6442 of 2014
12.02.2018