



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.02.2018

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD).No.5013 of 2015 and
M.P.(MD)No.1 of 2015

The General Manager,
Tamil Nadu State Transport Corporation
Kumbakonam Ltd.,
Karaikudi Region, Karaikudi,
Sivagangai District.

... Petitioner

Vs.

1. The Joint Commissioner of Labour,
(Conciliation),
Chennai - 2.

2. C.Govindan

... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, calling for records from the first respondent Joint Commissioner of Labour (Conciliation), Chennai, relating to the impugned award passed in A.P.No.290 of 2004, dated 14.07.2011 and quash the same.

For Petitioners	: Mr.K.Sathiya Singh, Standing Counsel for T.N.S.T.C.
For R-1	: Mr.K.Saravanan, Government Advocate.

O R D E R

The Writ petitioner is a Public Transport Corporation. The second respondent was employed as a Conductor. The management issued a Charge Memo dated 11.04.2004, alleging that when the second respondent was on duty on 05.04.2004 in vehicle bearing No.TN 63-N-0680 in Thayamangalam-Paramakudi trip, an inspection was conducted by the Checking officials and that it came to be known that the second respondent had misappropriated a sum of Rs.10/- due to the Corporation. An enquiry was conducted and the enquiry officer submitted that the charges imposed on the second respondent stood proved. The second show cause notice was issued on 15.07.2004. The second respondent submitted his explanation.



The management removed the second respondent from service by an Order, dated 07.12.2004. An application was taken out under Section 33(2)(b) of Industrial Disputes Act, 1947, seeking approval of the Authority for dismissing the second respondent herein. The first respondent Authority by an Order, dated 14.07.2011, declined to grant approval. The same is assailed in this Writ petition.

2. Heard the learned counsel on either side.

3. The petitioner's counsel reiterated the grounds set out in the affidavit filed in support of this Writ petition.

4. It is seen that at the time of checking, there were 70.5 passengers in the bus. There was a group of 13 passengers. The second respondent had collected a sum of Rs.10/- from each of them. He issued 11 full tickets and 2 half tickets and thus misappropriated a sum of Rs.10/-. This charge was held to be proved during enquiry. The first respondent had given a specific finding that the checking inspector did not count the cash maintained by the second respondent herein and tally the sum with the passengers' present. The fact that the invoice was not written, cannot be a ground for not carrying out the said exercise. Eventhough according to the management, a group of 13 passengers travelled, a member of the group had deposed in support of the second respondent herein. Likewise, the bus driver also turned hostile. The said witness had stated that they were pressurised into signing the statements at the instance of the checking inspector and claimed that they were not aware of what happened.

5. This aspect of the matter was not taken note of by the enquiry officer. Therefore, the first respondent came to the conclusion that there was not even a *prima facie* material in support of the charges and gave a finding that there has been a violation of the principles of natural justice. According to the management, there were 12 full tickets and 2 half tickets but the evidence adduced during enquiry was that there were 11 full tickets and 2 half tickets. Therefore, the first respondent rightly declined to grant approval. There is no cause for interfering with the well considered order passed by the first respondent. There is no merit in the Writ petition.

6. Accordingly, the Writ petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(AE)

/True Copy/



To

The Joint Commissioner of Labour,
(Conciliation),
Chennai - 2.

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AE/MK/SKN RSK/SAR1/01.06.2018/3P/2C

ORDER MADE IN
W.P. (MD) .No.5013 of 2015 and
M.P. (MD) No.1 of 2015
13.02.2018