



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.03.2018

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THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) Nos.18673 of 2016 and 2276 of 2017
and

W.M.P (MD) No.13503 of 2016

W.P. (MD) No.18673 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Periyamilaguparai,
Tiruchirapalli,
Formerly known as
[Tamil Nadu State Transport Corporation
(Kumbakonam Division II) Limited]

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Tiruchirappalli.

2.R.Balasubramanian

3. The Administrator,
TNSTC Pension Fund Trust,
Thiruvalluvar Illam,
Pallavan Salai,
Chennai - 02.

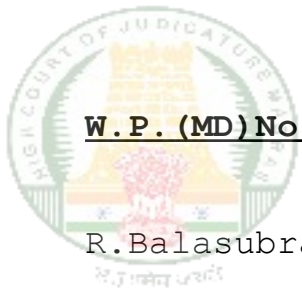
(R3 impleaded as suo motu)

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relates to the impugned order passed by the respondent No.1 in I.D.No.186 of 2006 dated 06.02.2013, quash the same.

For Petitioner : Mr.D.Sivaraman

For Respondents : Mr.C.Vakeeswaran for R2
R1 - Labour Court



W.P. (MD) No.2276 of 2017

R.Balasubramanian

...Petitioner

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Vs.

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Periyamilaguparai,
Trichy.

...Respondent

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondent to implement the order passed in I.D.No.186 of 2006 on the file of the Labour Court, Trichy dated 22.09.2014.

For Petitioner : Mr.C.Vakeeswaran

For Respondent : Mr.D.Sivaraman

COMMON ORDER

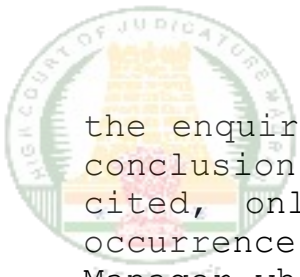
Since the Administrator, TNSTC Pension Fund Trust, Thiruvalluvar Illam, Pallavan Salai, Chennai - 02 is a necessary party in this case, this Court suo motu impleads them as third respondent in W.P(MD)No.18673 of 2016.

2.The Management is the writ petitioner in W.P(MD)No.18673 of 2016. The employee is the petitioner in W.P(MD)No.2276 of 2017. The employee was working as Conductor in the Transport Corporation. On 15.09.2001, he was issued with a charge memo, which contained the allegation that the employee misbehaved with the Manager in drunken condition. The Manager is said to have sustained injuries during the occurrence. Domestic enquiry was conducted and the employee was dismissed from service with effect from 06.05.2002. However, the same was set aside in I.D.No.186 of 2006 before the Labour Court, Tiruchirappalli. The Management was directed to reinstate the employee with 50% of back-wages and continuity of service. The same is assailed by the Management in W.P(MD)No.18673 of 2016. On the other hand, the employee wanted enforcement of the impugned award passed by the Labour Court.

3.Heard the learned counsel on either side.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The Labour Court came to the conclusion that the findings of



the enquiry officer are perverse. The reasons for coming to such conclusion was that even though three eyewitnesses were originally cited, only security guard alone was examined in proof of the occurrence in question. The second reason was that the General Manager who issued the charge memo, was not enquired as a witness.

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5.This Court is of the view that both the reasons cannot hold water. When the injured Branch Manager was examined as a witness, nothing more was required. In any event, by way of corroboration, the Security Guard had been examined. The Labour Court ought to have borne in mind that it was not conducting a criminal trial, in which, the standard of proof beyond reasonable doubt is applicable. In domestic enquiry, the standard is preponderance of probability and availability of some evidence. In this case, the evidence available was more than sufficient to find the delinquent as guilty. This Court is therefore, of the view that the Management has clearly established the charges framed against the delinquent. But then, this Court is of the view that the punishment of dismissal deserves to be modified.

6.The learned counsel appearing for the workman even at the very out set submitted that he would forgo the claim for even 50% of the back-wages awarded by the Labour Court. Taking note of the stand now taken by the employee, the punishment of dismissal is modified and the delinquent shall be deemed to have been in compulsorily retirement with effect from 06.05.2002.

7.The learned counsel appearing for the Management submits that the delinquent would even then get pensionary benefits. The Management is therefore directed to pay the Provident Fund, arrears of pension and Gratuity payable to the delinquent within a period of twelve weeks from the date of receipt of a copy of this order. It goes without saying that the said amount would not carry any interest. It is made clear that the direction given herein shall be complied with in letter and spirit by the third respondent Trust also.

8.In view of the above direction, the writ petition in W.P(MD) No.18673 of 2016 is partly allowed and the writ petition in W.P (MD)No.2276 of 2017 is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/



To

The Presiding Officer,
Labour Court,
Tiruchirappalli.

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+ 1 cc TO Mr.C.Vakeeswaran , Advocate in SR No. 56333
+ 1 cc TO Mr.D.Sivaraman , Advocate in SR No. 56386

skn

AE/KKR/SAR2/04.06.2018/4P/4C

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