



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.18717 of 2016
and
WMP (MD) No.13541 of 2016

The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam) Limited,
Periyamilaguparai,
Tiruchirappalli - 1.

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Tiruchirappalli.

2.M.Settu

... Respondents

Prayer: Writ petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the respondent No.1 in ID No.187 of 2006 dated 06.02.2013 and quash the same.

For petitioner	: Mr.D.Sivaraman
For Respondents	: R1-Labour Court
	R2- No appearance

ORDER

The petitioner is a public transport corporation. The second respondent was employed as a Conductor. He was unauthorisedly absent from 20.07.1994 to 23.11.1994. Therefore, charge memo dated 24.11.1994 was issued. The second respondent in his explanation dated 24.11.1994 admitted the charge. Yet, oral enquiry was conducted. The second respondent participated therein. The enquiry officer submitted his report on 17.04.1995 holding that the charge levelled against the workmen stood proved. Even in the enquiry, the second respondent did not deny the charge. After issuing second show cause notice, the second respondent was dismissed from service. The second respondent raised an industrial dispute in I.D No.187 of 2006 on the file of the Labour Court, Trichirappalli. The Labour Court by the impugned award dated 06.02.2013 held that imposing punishment of



dismissal from service is not justifiable and set aside the same. The second respondent was directed to be reinstated with continuity of service. He was however denied backwages. Questioning the same, the present writ petition has been filed.

2. Heard the learned counsel on either side.

3. As rightly contended by the learned standing counsel for the petitioner transport corporation, there was enormous delay in moving the labour court. The punishment is of the year 1995. The Labour Court was moved only in the year 2006. The charge against the second respondent is that there was unauthorised absence for a period of four months. The service rendered by the petitioner corporation is an essential utility of service. In such cases, remaining unauthorisedly absent ought to be viewed as a serious misconduct.

4. There is absolutely no explanation for the enormous delay in invoking the jurisdiction of the Labour Court. Ofcourse there was no limitation prescribed during the relevant time. But then, the conduct of the second respondent goes to show his character. Dismissal from service cannot be said to be disproportionate in all cases of unauthorised absence. The labour court has found that the domestic enquiry was fairly conducted. In fact, the second respondent admitted the charge framed against him.

5. This Court is of the view that imposing punishment of dismissal from service was absolutely warranted in this case. The decision taken by the management stands vindicated by the conduct of the second respondent in belatedly moving the labour Court.

6. For all these reasons, the impugned award is set aside. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court,



+1cc to Mr.D.CHANDRASEKARAN, Advocate Sr.No.48092
+1cc to Mr.D.Sivaraman, Advocate Sr.No.48045
+1cc to SPECIAL GOVERNMENT PLEADER, Sr.No.48568
SKM

MK/SV MMS/SAR 1/22.06.2018/3P/5C

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