



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM:

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 8600 of 2017

and

W.M.P (MD) Nos. 6523 and 6524 of 2017

The General Secretary,
Tamil Nadu Transport Corporation Employees Sangam,
4 K.K.M., Ranithottam,
Kanyakumari District.

... Petitioner

Vs.

1. The Management,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Ranithottam,
Nagercoil-629 001.
Kanyakumari District.

2. The Presiding Officer,
Labour Court,
Tirunelveli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records passed by the first respondent herein in 8148/Legal11/Departmental Proceedings/T.N.S.T.C/2014 dated 25.05.2015 and the consequential modified punishment of the second respondent passed in I.D.No.48 of 2016 dated 25.11.2016 and quash the same and consequentially direct the first respondent to reimburse the monetary benefits to the driver Wilson E.D.P.No.3052 of the first respondent Corporation and the Correspondent attendant benefits.

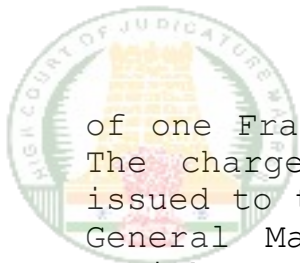
For Petitioner : Mr.K.Vamanan

For R1 : Mr.K.Sathiya Singh

R2 : Labour Court

ORDER

The petitioner is a registered trade union. One C. Willson, a member of the petitioner trade union was employed as a driver in the first respondent corporation. He was alleged to have been responsible for causing a fatal accident on 18.01.2014. In this regard, a criminal case was registered against him at the instance



of one Francis. The management issued charge memo dated 30.06.2014. The charges were found to be proved and show cause notice were issued to the said Willson. Finally, by order dated 25.05.2015, the General Manager of the first respondent corporation imposed the punishment of stoppage of increment for a period of three years with cumulative effect. The said order dated 25.05.2015 was questioned before the appellate authority. The appellate authority also confirmed the order. Thereafter, the cause of the said Wilson was taken up by the petitioner Union and the matter was referred to the Labour Court, Tirunelveli in I.D.No.48 of 2016.

2.The Labour Court, Tirunelveli by impugned award dated 25.11.2016 modified the punishment to one of the stoppage of increment for two years with cumulative effect. The same is assailed in the writ petition.

3.Heard the learned counsel on either side.

4.The case of the said delinquent driver is that a 75 age old man was chased by a street dog and then he fell down and that is how he died. The question is whether the delinquent herein is responsible for the death of the said 75 age old person.

5.According to the management, one Francis was informant in this case but he was not examined. In fact, no eye-witness was examined in the domestic enquiry. One Arulraj, official of the corporation was examined as a witness but even in the Labour Court, finding has been given in Paragraph 10 of the impugned award that he was not an eye-witness.

6.This Court went through the order passed by the disciplinary authority as well as the appellate authority. There is absolutely no discussion on the evidence led against Willson. The orders are bereft of particulars. Excepting certain standard sentences, there is nothing on record to arrive at a finding of guilt. Therefore, this Court is of the view that the Labour Court ought to have set aside the punishment order in *toto* and not modified the same. In any event, the power to modify the punishment can be invoked only if the punishment is one of discharge or dismissal. Therefore, the award of the Labour Court cannot be sustained. The award in this writ petition is quashed, quashing the punishment imposed on the petitioner, the writ petition is allowed. No costs. Consequently, W.M.P(MD)Nos.6523 and 6524 of 2017 are closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/



To
The Judge,
The Labour Court, Tirunelveli.

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+1CC to Mr.K.Vamanan, Advocate in SR.No.54473.

+1CC to Mr.K.Sathiya Singh, Advocate in SR.No.54014.

RMI

DS/SB/SAR-1 :05.07.2018: 3P/4C

W.P. (MD) No.8600 of 2017
and
W.M.P (MD) Nos.6523 and 6524 of 2017
08.03.2018