



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

Writ Petition (MD)No.214 of 2013

and

M.P(MD)No.1 of 2013

The Management,
State Express Transport Corporation (Tamil Nadu) Ltd.,
Madurai Depot, Melur Road,
Madurai. ... Petitioner

Vs.

1.The Secretary,
State Express Transport Corporation Oozhiyar Sangam,
Regn.No.1068/MDS-CITU,
V.P.Sindan Ninaivagam,
V.O.C., 2nd Street, Arul Nagar, Bye Pass Road,
Madurai 625 016.

2.The Presiding Officer,
Labour Court, Madurai. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the proceedings passed by the second respondent in I.D.No.196/2007, dated 17.09.2012 and quash the same as illegal.

For Petitioner	: Mr.P.Prabhakaran
For 1 st Respondent	: Mr.S.M.Mohan Gandhi
R2	: Labour Court

ORDER

Challenging the award of the Labour Court in I.D.No.196 of 2007, dated 17.09.2012 holding that the deduction of wages from the salary of one A.Yasin, driver of the Corporation, who is member of the first respondent Sangam for his absence from 09.08.2003 to 18.08.2003 is not justified and directing the management to pay the monetary benefits, the Corporation has filed the present writ petition.

2.It is not in dispute that the petitioner was working as a driver and he did not attend duty for 10 days. It is the case of the first respondent sangam that an industrial dispute was raised by the union contending that since there was a case registered by the Kerala Police against one A.Yasin who was working as driver in the petitioner Corporation, the employee had gone to Kerala in connection with the case for which, leave has also been applied. It is their further case that the wages cannot be deducted, without conducting any enquiry or notice which is unsustainable in law.



3.The case of the Corporation is that there was no need for the employee to be in Kerala for 10 days and the fact that the employee was absent from duty for 10 days even without getting prior permission or leave and therefore, his absence was marked as absent. Since he was absent for ten days, his wage was not paid on the principles of no work no pay. In the above circumstances, the question of conducting enquiry does not arise in this regard.

4.The Labour Court, after analysing and appreciating the pleadings raised by the parties, came to the conclusion that the wages of the employee for ten days cannot be deducted without conducting an enquiry and that the Corporation has not established their case beyond reasonable doubt.

5.It is a finding of fact that the Labour Court after analysing the documentary evidence filed by the petitioner, came to the conclusion that the deduction was not justified and accepted the case of the first respondent Sangam. This Court cannot substitute its view in place of the above said findings affect rendered by the Labour Court.

6.I find no reason to interfere with the award of the Labour Court. Accordingly, the writ petition is dismissed. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Presiding Officer,
Labour Court, Madurai.

+1cc to Mr.P.PRABHAKARAN,Advocate,SR.NO.82913

+1cc to Mr.S.M.MOHAN GANDHI,Advocate, SR.NO.82698

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RMI

MKH-KK/SV/SAR3/2P-4C/16.10.2018