

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.02.2019

Coram

The Hon'ble Mr. Justice V.PARTHIBAN

W.P.No.2222 of 2019
and
W.M.P.No.2472 of 2019

The Management,
Metropolitan Transport Corporation,
Chennai-600 002 ... Petitioner

Vs

The General Secretary,
State Transport Employees Union,
Regn.No.73/MDS(CITU),
No.Pallavan Salai,
Klaiaranga valagam,
Chennai-2 ... Respondent

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari to call for the records pertaining to the award passed in I.D.No.223 of 2017, dated 26.09.2018, by the I Additional Labour Court, Chennai and quash the same.

For Petitioner ... Mr.M.Chidambaram

ORDER

The writ petition is filed against the award dated 26.09.2018, passed by the I Additional Labour Court, in I.D.No.223 of 2017.

2.The facts which gave rise to the filing of the Industrial Dispute before the Labour Court are briefly set out hereunder:

The respondent Union, in which the workman was a member, had raised an industrial dispute in regard to the punishment imposed on the workman by the petitioner Management for stoppage of increment for a period of one year with cumulative effect. The workman concerned was charge-sheeted by the Management for causing accident and thereby causing injury to a pedestrian, when he was working as a driver in the Corporation. According

to the charge-memo, due to his negligent driving, a pedestrian was injured and was hospitalised. On the basis of his explanation being found not satisfactory, the punishment as aforesaid was imposed on him. According to the respondent Union, there was no negligence on the part of the worker concerned and without conducting proper enquiry, the punishment came to be imposed arbitrarily and unjustly. In the said circumstances, the industrial dispute came to be raised.

3.The Labour Court, after adverting to the facts and various materials placed on record, found that there was justification in the action initiated by the Management and ultimate punishment imposed on the worker. However, ultimately the Labour Court modified the penalty of stoppage of increment with cumulative effect into one of stoppage of increment without cumulative effect on the basis that the workman himself, who was driving the bus, had taken the injured person in the same bus to the hospital and there was no fatality. Considering the bona fide conduct of the workman concerned in taking the injured to the hospital, the punishment came to be modified by the Labour Court. The modified award of the Labour Court is put to challenge in the present writ petition.

4.The learned counsel appearing for the petitioner Management would submit that the Labour Court need not have modified the order since the accident caused by the worker concerned due to his negligence was established and that was accepted by the Labour Court. Once the negligence was established on the part of the worker concerned, it was not open to the Labour Court to modify the penalty unless the penalty was found to be excessively harsh and disproportionate. In the present case, the punishment itself was only a stoppage of increment for a period of one year with cumulative effect and therefore, the said punishment cannot be construed as one of harsh or disproportionate to the gravity of misconduct committed by the workman.

5.This Court considered the submission made on behalf of the petitioner and perused the materials and pleadings placed on record.

6.The materials as disclosed would point to the fact that the worker concerned was charge-sheeted and after getting his explanation, punishment was imposed without any enquiry as contemplated in the Standing orders. According to the respondent Union, stoppage of increment, particularly, with cumulative effect, is a major penalty, for which, enquiry ought to have been conducted before the penalty can be inflicted.

7.Even otherwise the finding of the Labour Court about

the conduct of the worker concerned was reasonable and just and therefore, the Labour Court has simply modified the penalty and not set aside the penalty altogether. Therefore, this Court finds that the award modifying the penalty appears to be just and reasonable and does not call for interference. The Labour Court has applied overall circumstances of the case in modifying the penalty and such modification, unless found to be perverse or legally unacceptable, does not call for interference of this Court, exercising its power under Article 226 of the Constitution of India.

In view of the above, this Court finds no merit in the writ petition and therefore, the same is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

msk

To

The Presiding Officer,
1st Additional Labour Court,
Chennai.

+1cc to Mr.M.Chidambaram, Advocate SR.No.9240

W.P.No.2222 of 2019

SSI (CO)
GMY (27/02/2019)

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