

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.27889 of 2008
and M.P. No.1 of 2008

Tamil Nadu State Transport
Corporation Coimbatore Ltd.,
rep. by its Managing Director,
Coimbatore. ... Petitioner

-vs-

1.The Presiding Officer,
Labour Court,
Coimbatore.

2.G.D.Abdul Vahab ... Respondents

Prayer: Petition filed under Article 226 of the
Constitution of India, praying for the issue of a Writ of
Certiorari to call for the records of the Award dated
28.12.2007 passed by the first respondent in I.D.
No.304/2001 and quash the same.

For Petitioner : Mr.P.Kannankumar

For Respondents : R1-Court

Mr.R.Y.George Williams for R2

सत्यमेव जयते
ORDER

The writ petition has been directed against the
impugned Award dated 28.12.2007 passed by the Presiding
Officer, Coimbatore, the first respondent herein in I.D.
No.304/2001 ordering re-instatement of the second
respondent into service with continuity of service and
other benefits.

2.Learned counsel appearing for the petitioner
submitted that the second respondent was employed as a
Conductor in the petitioner Corporation from 28.05.1980.
While so, on 14.03.1998, when the second respondent was in
charge of a bus bearing No.TN.37 N 0669, proceeding from
Tirupur to Mettupalayam, the Checking Inspectors found that
the second respondent although collected fare @ Rs.4.50 per
ticket from four passengers who boarded at Avinashi, had

not issued them tickets. At the time of checking, the second respondent was found to be issuing the tickets though the four passengers had travelled for more than 15 kms. Taking note of the fact that the second respondent was hurriedly preparing tickets only after noticing the Checking Inspectors and also the fact that the second respondent behaved in an indecent manner towards the Checking Inspectors and created ruckus inside the bus and in front of the passengers and misappropriated the collection amount, which is amounting to misconduct under clauses 14(d)(k)(u) (ab) (ae) of the Standing Orders of the petitioner Corporation, a Charge Sheet dated 20.03.1998 was issued to the second respondent. As the explanation of the second respondent was not satisfactory, a domestic enquiry was conducted. Finally, the Enquiry Officer held that all the charges levelled on the second respondent were proved and based on the said report of the enquiry officer, he was issued with the second show cause notice dated 29.10.1998 together with enquiry proceedings. As the explanation dated 09.12.1998 given by the second respondent for the second show cause notice was not satisfactory, he was dismissed from service by order dated 07.01.1999. However, the second respondent raised an Industrial Dispute before the Presiding Officer, Labour Court, Coimbatore, the first respondent herein in I.D. No.304 of 2001 challenging the order of his dismissal, but, the first respondent by order dated 28.12.2007, setting aside the dismissal order, directed the petitioner Corporation to re-instate the second respondent in service with continuity of service and other benefits and also made it clear that the second respondent is not entitled to any increment during the period of non employment.

3. Heard both sides.

4. It is seen that the second respondent was issued with the charge memos after completion of 18 years of service in the petitioner Corporation as a Conductor. Since the second respondent was imposed with the punishment on the proved charges, he was denied employment from the date of dismissal till the date of Award passed by the Labour Court, Coimbatore on 28.12.2007.

5. Learned counsel appearing for the petitioner submitted that the second respondent was found guilty for almost 66 times and therefore, he was imposed with the punishment of removal from service. But the Labour Court, taking note of the fact that there was only one charge namely, failure to issue ticket was found proved, modified the punishment of dismissal from service and ordered re-instatement of service.

6. Therefore, this Court, taking note of the fact that the second respondent was suitably punished without

any increment for a period of eight long years from 07.01.1999 till 28.12.2007, finds no merit in the writ petition,

7. Accordingly, the writ petition fails and the same is dismissed and the Award passed by the Labour Court is hereby confirmed. Since it is submitted that the second respondent reached the age of superannuation during the pendency of the writ petition, the petitioner Corporation is directed to pay him all the retiral benefits by calculating the continuity of service, without back wages. Consequently, M.P. is closed. No costs.

Sd/--

Assistant Registrar (CS vi)

//True Copy//

Sub Assistant Registrar

vga

To

The Presiding Officer,
Labour Court,
Coimbatore.

+1cc to Mr. R.Y. Williams George, Advocate SR.No. 26962

+1cc to Mr. P. Kannankumar, Advocate SR.No. 29936

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and M.P. No. 1 of 2008

sr (CO) A.SK (06/05/2019)

सत्यमेव जयते

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