

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.36936 of 2004

Mariyappan

.. Petitioner

Vs.

1.The Managing Director,  
Tamilnadu State Transport Corporation Limited,  
Kumbakonam Division,  
New Railway Station Road,  
Kumbakonam.

2.The Presiding Officer,  
The Labour Court,  
Cuddalore.

3.State of Tamil Nadu,  
represented by Commissioner  
and Secretary,  
Labour and Employment Department,  
Chennai - 600 009.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorarified Mandamus directing the respondent herein to call for the records pertaining from the respondents herein in pursuance of the order passed in C.R.C/T4/2/88 dated 30.04.1988 passed by the 1<sup>st</sup> respondent herein and conforming the order dated 17.03.2003 passed in I.D.No.4 of 1994 on the file of the 2<sup>nd</sup> respondent herein and to quash the same and reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.K.Balachandran  
For RR1 & 3 : Mr.D.Venkatachalam  
(Additional Government Pleader)

ORDER

The present Writ Petition is filed for issuance of writ of Certiorarified Mandamus directing the respondents herein to call for the records pertaining from the respondents herein in pursuance of the order passed in C.R.C/T4/2/88 dated 30.04.1988

passed by the 1<sup>st</sup> respondent herein and conforming the order dated 17.03.2003 passed in I.D.No.4 of 1994 on the file of the 2<sup>nd</sup> respondent herein and to quash the same and reinstate the petitioner in service with all attendant benefits.

2.The petitioner while working as conductor in the service of the first respondent, a charge memo was issued to him alleging that he issued a ticket for Rs.7.70 and in the invoice corrected the amount as Rs.3.70 and misappropriated Rs.4/-. The petitioner submitted his explanation to the charge memo. Not being satisfied with the explanation submitted by the petitioner, an Enquiry Officer was appointed to conduct an enquiry. The Enquiry Officer filed report holding that charges leveled against the petitioner are proved. The petitioner did not give any explanation to the second show cause notice issued by the first respondent. By the order dated 30.04.1988, the first respondent dismissed the petitioner from service. The petitioner raised Industrial Dispute in I.D.No.4 of 1994 on the file of the second respondent. Both the petitioner and first respondent did not let in any oral evidence, but marked documents. The second respondent considering the pleadings and documents marked and relied on by the petitioner and first respondent, dismissed the Industrial Dispute holding that the charges leveled against the petitioner were proved. The petitioner failed to prove that he sought for extension of time to submit his explanation and held that punishment of dismissal is proportionate to the gravity of the proven charges and dismissed the Industrial Dispute. Against the said order of dismissal, the petitioner has come out with the present Writ Petition.

3.The contention of the learned counsel appearing for the petitioner is that the first respondent did not prove the charges leveled against the petitioner. The first respondent has not filed the document to prove the charges leveled against the petitioner. The alleged correction in the invoice was not made by the petitioner, but it ought to have been made by somebody else. The petitioner did not misappropriate any amount. He has paid the entire collection amounts.

4.Per contra, Mr.D.Venkatachalam, learned Additional Government Pleader appearing for the respondents 1 and 3 contended that all the necessary documents were filed before the Enquiry Officer. The petitioner fully participated in the enquiry along with observer. The first respondent issued second show cause notice enclosing the report of the Enquiry Officer calling upon the petitioner to submit his explanation. The petitioner did not submit his explanation even after extension of time. Only after considering all the materials on record, the order of dismissal was passed. Similarly, the second respondent

has given valid reason for dismissing the Industrial Dispute. There is no error in the award passed by the second respondent warranting interference by this Court and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents 1 and 3 and perused the entire materials on record.

6. From the materials placed on record, it is seen that an Assistant from inspection section traveled in the bus, where the petitioner was working as conductor and a ticket for Rs.7.70 was issued to him. The petitioner after entering the amount in the invoice, subsequently corrected the same as Rs.3.70 and misappropriated Rs.4/-. The first respondent produced the original ticket for Rs.7.70 issued by the petitioner and the invoice wherein the amount was corrected as Rs.3.70. The explanation given by the petitioner was not satisfactory and in the enquiry conducted by the first respondent, the petitioner fully participated along with observer. The contention of the learned counsel appearing for the petitioner that the alleged correction was not made by the petitioner, but was made by somebody else is not acceptable, as the petitioner has handed over the amount after correction in the invoice. The learned counsel appearing for the petitioner further contended that the petitioner sought for extension of time by Ex.W2, but the first respondent passed the order of dismissal without extending time for submitting explanation. This contention is not proved by the petitioner. The petitioner has not produced any acknowledgment for seeking extension of time. The second respondent considering these facts and exhibits marked by the petitioner and first respondent, held that the charges leveled against the petitioner are proved and punishment imposed is not disproportionate to the proven charges leveled against the petitioner. There is no error in the reasoning of the second respondent and the impugned award of the second respondent is not perverse warranting interference by this Court.

7. In the result, this Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

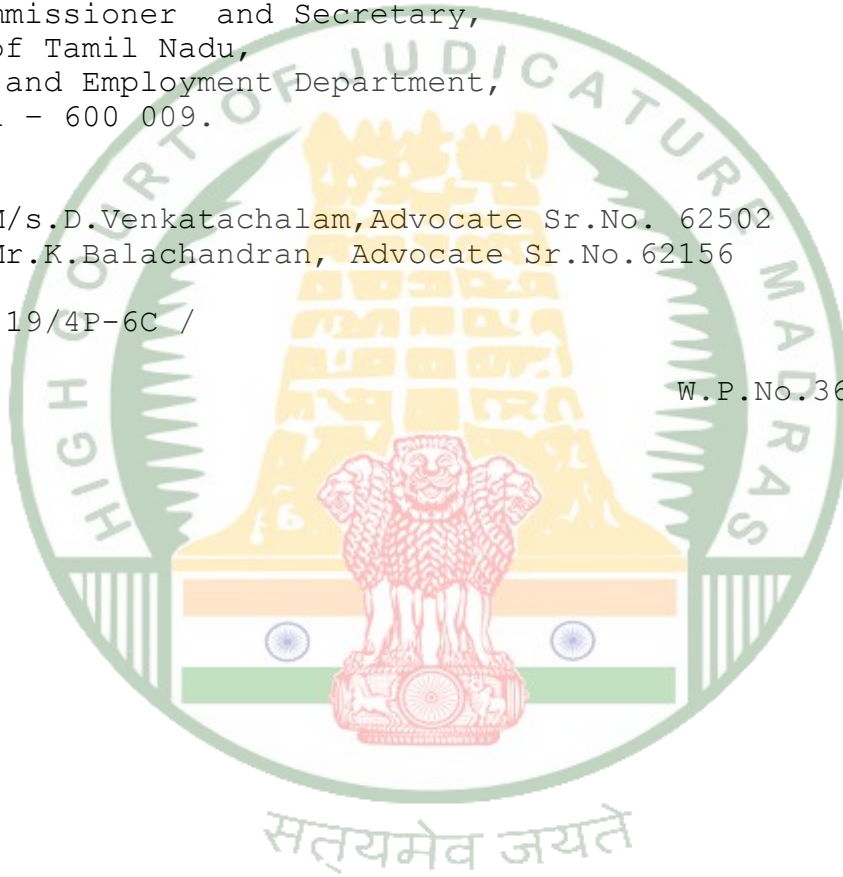
To

- 1.The Managing Director,  
Tamilnadu State Transport Corporation Limited,  
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- 2.The Presiding Officer,  
Labour Court,  
Cuddalore.
3. The Commissioner and Secretary,  
State of Tamil Nadu,  
Labour and Employment Department,  
Chennai - 600 009.

+1 cc to M/s.D.Venkatachalam, Advocate Sr.No. 62502  
+1 cc to Mr.K.Balachandran, Advocate Sr.No.62156

AKM/13.09.19/4P-6C /

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