

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.9281 of 2004

and

W.P.M.P.Nos.10829, 1135, 26341 and 23970 of 2004

The General Manager,
Tamil Nadu State Transport Corporation
(Kumbakonam Division - I) Limited,
Kumbakonam Railway Station New Road,
Kumbakonam - 612 001. .. Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Cuddalore.

2.P.Balasubramanian ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of writ of Certiorari to call for the records culminating in Award dated 14.08.2003 in I.D.No.85 of 1997 on the file of the 1st Respondent Presiding Officer, Labour Court, Cuddalore and quash the proceedings.

For Petitioner : Mr.D.Venkatachalam

For R2 : Mr.S.Karuppiah for
Mr.V.Ajay Khose

O R D E R

The present Writ Petition is filed for issuance of writ of Certiorari, to call for the records culminating in Award dated 14.08.2003 in I.D.No.85 of 1997 on the file of the Presiding Officer, Labour Court, Cuddalore, the 1st Respondent herein and quash the proceedings.

2.The petitioner issued charge memo dated 30.10.1993 to the second respondent, who was working as conductor in the petitioner-Transport Corporation alleging that he collected 80 paise each from two passengers and issued two green colour blank papers instead of tickets. According to the petitioner, the

Checking Inspector checked the bus at 07:30 P.M on 20.10.1993 at Melakkavery bus stop and found the misconduct done by the second respondent and recorded the statement from passengers as well as from one Subramaniyan, conductor of the petitioner-Transport Corporation who traveled in the same bus as passenger.

3. According to the learned counsel appearing for the petitioner, the Checking Inspector issued two tickets of 80 paise each to the passengers at the time of checking and made necessary entries in the invoice. The learned counsel appearing for the petitioner submitted that the petitioner proved the charges leveled against the second respondent by examining the Checking Inspector in the domestic enquiry. Before the first respondent, the petitioner marked the inspection report, invoice, green colour blank papers issued by the second respondent and substantiated the order of dismissal issued to the second respondent for the proven charges.

3(a). The first respondent without properly appreciating the evidence, erroneously set aside the order of dismissal and ordered reinstatement with continuity of service and attendant benefits and 50% of the back wages. The first respondent failed to see that the second respondent refused to give cash bag for verification and refused to sign the inspection report. The petitioner examined the Checking Inspector in the domestic enquiry and marked the inspection report. The first respondent failed to see that the second respondent did not let in any evidence or marked any document to disprove the evidence of the Checking Inspector. The petitioner also mentioned the past record of the second respondent in the second show cause notice. The misconduct committed by the second respondent is serious in nature and order of dismissal is proper punishment. The first respondent for erroneous reason held that the petitioner failed to prove the charges leveled against the second respondent and set aside the order of dismissal and prayed for allowing the Writ Petition.

4. Mr. S. Karupiah representing Mr. V. Ajay Khose, learned counsel appearing for the second respondent reiterated the averments made in the claim petition and contended that the Checking Inspector who was working as conductor along with the second respondent was having some personal enmity with the second respondent. He was promoted only 20 days prior to the incident as Checking Inspector. Due to the previous enmity, he has given false report. Except one Inspector, the petitioner did not examine the other Inspector or the Assistant Manager, who has given the complaint, the other conductor of the Transport Corporation who traveled in the bus as passenger and passengers to whom the alleged green colour blank paper was issued. The first respondent has given valid reason for holding that charges

leveled against the second respondent are not proved, set aside the order of dismissal and ordered reinstatement with continuity of service and attendant benefits and 50% of the back wages and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the second respondent and perused the entire materials on record.

6. From the materials available on record it is seen that the specific case of the petitioner is that after finding the second respondent issued only two green colour blank papers to two passengers and did not issue ticket after receiving 80 paise from each of the passengers, the Checking Inspector who checked the bus at 07:30 P.M on 20.10.1993 at Melakkavery bus stop, found the same and issued two tickets for 80 paise each and made entry in the invoice. The Checking Inspector also mentioned the numbers of the tickets alleged to have been issued to the passengers after inspection and entered the numbers in the invoice. The first respondent verifying the invoice which was marked as Ex.M9, found that the number mentioned by the Checking Inspector for issuing two tickets to the passengers were already issued by the second respondent and entries were made in the invoice, held that the first charge leveled against the second respondent was not proved. It is pertinent to note that the petitioner did not examine the Subramaniyan, the conductor of the petitioner Transport Corporation who traveled in the same bus as passenger either before the Enquiry Officer or before the first respondent. Similarly, the petitioner did not examine the driver of the bus or Assistant Manager, who gave the complaint to prove the charges. Considering the entire materials on record and allegations of personal enmity between the second respondent and the Checking Inspector and reasoning of the first respondent for holding that the charges leveled against the second respondent are not proved, I hold that there is no error in the reasoning of the first respondent in the impugned award warranting interference by this Court.

7. In the result, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

To

The Presiding Officer,
The Labour Court,
Cuddalore.

+1 CC to Mr.V.Ajay Khose, Advocate sr 62742.
+1 CC to Mr.D.Venkatachalam, Advocate sr 62503.

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W.P.M.P.Nos.10829, 1135, 26341 and 23970 of 2004

VSNI (CO)
SP (04/09/2019)



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