



Review Application No.77 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE V.SIVAGNANAM**

**Review Application No.77 of 2015
in W.A.No.1992 of 2012**

N.Namachivayam

... Applicant

Vs.

1.The Management,
State Express Transport Corporation T.N.Ltd.,
Pallavan Salai, Chennai 600 002.

2.The Presiding Officer,
II Addl.Labour Court,
Chennai 600 104.

...Respondents

PRAYER:-Review Petition filed under Order XLVII Rule 1 read with
Section 114 of C.P.C to review the judgment and order dated 12.06.2014
made in W.A.No.1992 of 2012 and allow W.A.No.1992 of 2014.

For Review Applicant : Mr.T.P.Prabakaran

For R1 : Mr.P.Paramasivadoss

For R2 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader



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ORDER

[Order of the Court was delivered by J.NISHA BANU, J.,]

The above Review Application is filed seeking to review the order dated 12.06.2014 made in W.A.No.1992 of 2012 passed by this Court.

2. In W.A.No.1992 of 2012, the Division Bench of this court dismissed the writ appeal filed by the employee and confirmed the order dated 14.3.2012 made in W.P.No.29483 of 2007 passed by the learned Single Judge.

3. The Division Bench held that whether the amount is big or small, the conduct of the person at the relevant point of time assumes importance and the appellant had admitted his mistake and has further chosen to offer explanation that it was only a simple and inadvertent mistake; the judgments rendered by the Hon'ble Supreme Court and relied on by the learned Single Judge, laid down the proposition that once such a charge is serious in nature and found to be proved, the Labour court cannot exercise its power under Section 11-A of the Industrial



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Disputes Act for ordering reinstatement as there is loss of confidence by the management against the appellant.

4. The Division Bench further referred to decision of the Hon'ble Supreme Court in the case of ***Ramesh Chandra Sharma Vs. Punjab National Bank and another*** reported in ***2007 AIR SCW 4136*** and confirmed the order of the learned Single Judge.

5. In the grounds of review application, it is averred that the applicant/appellant had valid explanation for excess cash available in the cash bag. Further, no passenger had given any statement to the effect that the applicant after having collected money, did not issue ticket. The charge of misappropriation alleged against the applicant had not been proved or established as there is no evidence available on record to prove the said charge. Even according to the 1st respondent/management, the applicant/appellant had attempted to commit misappropriation and cause loss to the Corporation, but suspicion cannot take the place of proof.

6. Heard both sides and perused the records carefully.



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7. The Division Bench of this Court gone into entire facts of the case and discussed the findings in detail and confirmed the order of the learned Single Judge. It is clearly pointed out by the Division Bench of this court that once the employer has lost the confidence in the employee and the bonafide loss of confidence is affirmed, the order of punishment must be considered to be immune from challenge.

8. We are of the considered view that granting the employee the relief of reinstatement would be an act of misplaced sympathy. When there is apprehension in the trustworthiness of reliability of the employee, whatever grounds taken by the employee-appellant herein would not help the employee to gain confidence under the same management. Further, power to review under Section 114 read with Order 47 Rule 1 CPC can be exercised for correction of a mistake but not to substitute a view.

9. The review is also not an appeal in disguise. We are of the considered view that there is no error apparent on the face of the record warranting review of the order passed by this Court dated 12.06.2014.



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This court in exercise of review jurisdiction, without sufficient and just reasons, cannot review its own judgment. This Court finds no merit in the review application and therefore, the present Review application is dismissed. No costs.

(J.N.B,J.) (V.S.G., J.)

05.06.2024

Index : Yes / No
Internet : Yes/No
Speaking order : Non-speaking order
Neutral Citation : Yes/No

sk/nvsri

To

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Pallavan Salai, Chennai 600 002.

2.The Presiding Officer,
II Addl.Labour Court,
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