

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No. 27316 of 2014

and

M.P.No.1 of 2014 and M.P.Nos.1 & 2 of 2015

The Managing Director,
Metropolitan Transport Corporation
(Chennai)Ltd.,
Pallavan Illam,
Anna Salai,
Chennai - 600 002.

.... Petitioner

vs.

1. J.S.Charles Chelladurai,
JTM A 24767
No.10/223, 6th Street,
Anna Sathiya Nagar,
Chennai - 600 078

2. The Presiding Officer,
II Additional Labour Court,
City Civil Curt Annexure Buildings,
High Court Compound,
Chennai - 600 104.

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records pertaining to the order dated 07.03.2014 made in I.D.No.779 of 2010 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.M.Chidambaram

For Respondents : Mr.R.Gowthaman for R1

O R D E R

Aggrieved against the award dated 07.03.2014 made in I.D.No.779/2010, the petitioner Management filed the present writ petition. The Labour Court directed the petitioner Management to reinstate the first respondent workman into

service without backwages and other attendant benefits, however, with continuity of service.

2. The first respondent was working as JTM in the petitioner Corporation. He was issued with a charge memo on 17.12.2007 alleging that on 21.11.2007, he, under the influence of alcohol, shouted at the Branch Manager and abused him. An enquiry was conducted and the charges levelled against the first respondent were found proved. Consequently, the first respondent was removed from service by order dated 30.05.2008. The first respondent raised Industrial Dispute in I.D.No.779/2010. The Labour Court passed the impugned award directing reinstatement alone without backwages and however, with continuity of service.

3. It is contended on behalf of the petitioner that the impugned award cannot be sustained, since the first respondent had shouted at the Branch Manager under the influence of alcohol and that he left the working place during working hours without permission. Therefore, he contended that the dismissal of service is an appropriate punishment, with which, the Labour Court ought not to have interfered with.

4. On the other hand, the learned counsel for the first respondent submitted that the Labour Court has rightly found that the punishment imposed on the first respondent is excessive, more particularly, when the Management has failed to prove that the first respondent was under the influence of alcohol. He also invited this Court's attention to the fact that the complainant, namely, the Branch Manager was not at all examined.

5. Heard both sides. Perused the materials placed before this Court.

6. The charges levelled against the first respondent were in respect of an incident that had taken place on 21.11.2007. The Branch Manager, who alleged to have been abused by the first respondent on the said day, was the complainant. However, it is seen that he was not examined as a witness. No doubt, the Management has examined one M.Gajendran, working as Senior Grade Tradesman at K.K.Nagar Depot as Management witness. It is seen that MW1 has spoken about the incident and deposed that the first respondent abused the Branch Manager and thereafter, left the Depot. However, it is seen that the Management has not proved that the first respondent has been under the influence of alcohol at that time, as he was not sent for any medical examination. The learned counsel for the petitioner, at this juncture, submitted that since the first respondent has left the premises, there was no opportunity for the Management to send

the first respondent for medical examination. In any event, since the Labour Court has chosen to interfere with the punishment, being an excessive one, more particularly, when the complainant, namely Branch Manager, has not been examined as witness and in view of the fact that the first respondent has also accepted the award and has not questioned the same which denied his backwages, this Court is of the view that no ground is made out to interfere with the award of the Labour Court. Accordingly, the writ petition fails and the same is dismissed.

However, going by the fact that the first respondent has chosen to abuse the Branch Manager which has resulted in losing his backwages, this Court is of the view that it is better that the first respondent be transferred to some other depot so that conducive atmosphere will prevail at the depot in which the occurrence took place. Accordingly, the petitioner is directed to transfer the first respondent to some other depot within the city with the very same designation. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

The Presiding Officer,
II Additional Labour Court,
City Civil Court Annexure Buildings,
High Court Compound,
Chennai - 600 104.

+1cc to Mr.M.Chidambaram, Advocate Sr.102711
+1cc to Mr.R.Gowthaman, Advocate Sr.102451

W.P.No.27316 of 2014

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srg 03/02/2020