

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.03.2019

C O R A M

The Honourable Mr. Justice SENTHILKUMAR RAMAMOORTHY

Writ Petition No.176 of 2006

A.Arumugam

... Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Salem.

2.The Management of
Tamil Nadu State Transport Corporation,
(Salem-Div-I) Ltd.,
12, Ramakrishnan Road,
Salem-636 007.

Rep. by its Managing Director

...Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to I.D.No.246 of 2002 dated 13.10.2003 on the file of the first respondent and quash the same and consequently direct the second respondent to reinstate the petitioner with backwages, continuity of service and all other attendant benefits from the date of dismissal i.e. From 29.01.2002 onwards.

For Petitioner : Mr.S.Vijaya

For Respondent : Mr.A.V.Ramalingam

Addl. Government Pleader (Puducherry)

सत्यमेव जयते

O R D E R

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This writ petition has been filed seeking for a Writ of Certiorari cum Mandamus to call for the records relating to I.D.No.246 of 2002 dated 13.10.2003 on the file of the first respondent, quash the same and consequently direct the second respondent to reinstate the petitioner with backwages, continuity of service and all other attendant benefits from the date of dismissal, i.e. from 29.01.2002.

2.The main issue that arises for consideration in this case is whether there are infirmities in the Award dated 13.10.2003 in I.D.No.246 of 2002. It appears that the petitioner was employed as a Driver in the respondent Corporation on 01.07.1985. In view of his absenteeism from duty, from 27.10.2001, he was issued a charge memo on 16.11.2001.

3.Upon receipt of the charge memo, a domestic enquiry was conducted and the petitioner appeared before the enquiry officer on 03.01.2002. At the domestic enquiry, two witnesses, viz., Raju and Kumar, were examined on behalf of the Management and the said witnesses deposed that the petitioner was unauthorizedly absent from duty without any leave application. The petitioner examined himself as a witness in the proceedings and admitted that he was absent from duty from 27.10.2001. Accordingly, the Labour Judge, Salem, recorded in the impugned Award dated 13.10.2003 that principles of natural justice were followed during the course of enquiry and that the enquiry officer has found that the charges against the petitioner were proved beyond reasonable doubt. The said Award further reveals that the petitioner was called upon to submit his explanation to the report of the enquiry officer and that the petitioner also submitted his explanation and that in view of the inadequacy of the explanation, an order was passed terminating the petitioner from service. The impugned Award further states that the petitioner did not submit a medical certificate in order to establish that his absence was due to his illness. It is further recorded that he was a habitual absentee and that 40 incidents of misconduct are noted in the second show cause notice to the petitioner. Accordingly, the Labour Court rejected the petition seeking reinstatement.

4.At the hearing today, this Court considered the affidavit of the petitioner and the documents on record carefully and heard oral arguments.

5.It was submitted on behalf of the petitioner that the petitioner could not attend duty on account of his illness and that, therefore, the impugned award is liable to be quashed. On the other hand, it was submitted by the learned counsel for the respondent that there are no infirmities in the Award.

6.On examining the impugned Award, this Court finds that the principles of natural justice were duly followed by the enquiry officer and that the charges were proved after examining witnesses and perusing the relevant documents. In addition to that, it has been noted in the impugned Award that the petitioner failed to provide a Medical Certificate or leave application. The involvement of the petitioner in about 40 misconducts in the past, has also been taken into account.

Therefore, there is no infirmity in the impugned Award and no case has been made out for interference by this Court in the exercise of supervisory jurisdiction.

7.In the result, this Writ Petition is dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

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To

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Salem.

2. Tamil Nadu State Transport Corporation,
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+1cc to Mr.S.Vijaya, Advocate SR.No.28121

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SSI (CO)
GMY (31/05/2019)

सत्यमेव जयते

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