



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2019

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THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .No.5266 of 2010

and

M.P. (MD) Nos.1 and 2 of 2010

WEB COPY

The Management,
Tamil Nadu State Transport Corporation,
Karaikudi.

.. Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.K.R.Rajendran

.. Respondents

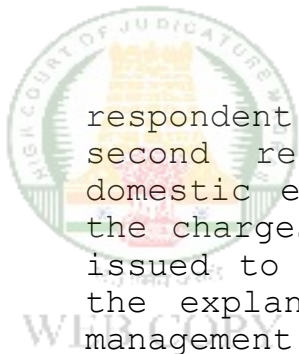
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records pertaining to the award, dated 19.11.2008, in I.D. No.9 of 1999 on the file of the first respondent and quash the same.

For Petitioner	:	Mr.P.Thilak Kumar
For Respondent	2	: Mr.P.Natarajan
Respondent 1	:	Court

O R D E R

This Writ Petition is filed by the Transport Corporation, the employer, challenging the order of the Labour Court in I.D.No.9 of 1999 directing reinstatement of the second respondent without back wages.

2.The second respondent in this Writ Petition was working as a Conductor in the petitioner corporation. When the second respondent was on duty in a bus on 15.02.1996, in the route, Kiliyur to Ramanad, there was a checking by the Checking Inspector near the place Aranmanai. During checking, it was found that the second respondent had issued ticket which was punched in the first stage of up-trip instead of punching in twelveth stage of down-trip after collecting due fare of Rs.2.50 from the passenger. It is admitted that the second respondent had issued 24 up-trip tickets with improper punching after collecting due fare from various passengers. The amount collected by issuing tickets with improper punching was a sum of Rs.40.70. Hence, charge memo was issued against the second



respondent alleging misappropriation of a sum of Rs.40.70. The second respondent submitted his explanation on 13.03.1996. A domestic enquiry was conducted and the Enquiry Officer found that the charges are proved. Thereafter, a second show cause notice was issued to the second respondent on 16.07.1996. After considering the explanation offered by the second respondent, the petitioner management terminated the second respondent from service by proceedings dated 20.08.1996.

3.The second respondent raised an Industrial Dispute before the first respondent in I.D.No.9 of 1999. The Labour Court partly allowed the petition by directing reinstatement but without back wages but with continuity of service. Challenging the award of the Labour Court, the above Writ Petition is filed.

4.The learned Counsel appearing for the petitioner submitted that the Labour Court miserably failed to consider the past records of the second respondent and proceeded on mere presumptions and assumptions. The learned Counsel appearing for the petitioner further submitted that the first respondent has passed the award without an application of mind merely by accepting the statement in defence submitted by the second respondent and ordered reinstatement. The learned Counsel further submitted that the reinstatement with continuity of service directed by the Labour Court is arbitrary and opposed to the principles reiterated by several precedents. Finally, the contention of the learned Counsel appearing for the petitioner was based on public trust doctrine.

5.This Court considered the submissions of the learned Counsel appearing for the petitioner as well as the second respondent.

6.It appears that the Enquiry Officer gave his findings against the second respondent only on the ground that the second respondent made an attempt to misappropriate a sum of Rs.40.70, by presumption. It was suggested by the management that the tickets were issued by improperly punching as if the tickets were issued during up-trip. It is admitted that the bus was travelling from Kiliyur to Ramanad which is a return trip known as down-trip. The contention of the petitioner is based on assumption that the tickets which were issued by the second respondent would be collected later from the passengers concerned so as to reissue the same during the forward trip/up-trip. Therefore, from the charges and evidence available in this case, the petitioner though alleged misappropriation against the second respondent, the allegation is only that it is possible for the second respondent to misappropriate a sum of Rs.40.70 by utilising the sold tickets. There is no evidence in this case that the tickets were actually collected from the passengers for the second respondent to reissue. The learned Counsel was requested to produce the trip-sheet/invoice record after completion of the down-trip. The learned Counsel has admitted that the invoices had been
<https://hcsenforcement.gov.in/hcsenforcement/>. If the sale of tickets by the second respondent



had been shown or reflected in the invoice, the same would show that the petitioner's allegation against the second respondent regarding misappropriation is false and cannot be sustained. The tickets which had been sold and recorded in the invoice cannot be reissued. In other words, the allegation against the second respondent can be proved only by showing that the sale of tickets was not recorded in the invoice (which has to be closed at every stage). Hence, the best evidence is not produced. In this case, the Labour Court has considered the dispute with reference to the document produced by the parties. Even though no document has been produced by the workman, the findings of the Labour Court on the factual issue are unassailable as the Labour Court has extensively considered all the documents produced by the parties. Having regard to the limited scope of the judicial review, this Court is unable to find any reason or material to interfere with the findings of the Labour Court. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

The Presiding Officer,
Labour Court, Madurai.

+1CC TO MR.P.THILAK KUMAR, Advocate Sr. No. 88934

ORDER MADE IN
W.P. (MD).No.5266 of 2010
24.09.2019

MR (CO)

TR(16.10.2019) 3P 3C