



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.1023 of 2011

K.Chandrasekaran

.. Petitioner

Vs.

1.The Managing Director,
Tamilnadu State Transport Corporation
(Kumbakonam Division 2) Ltd.,
Periyamilagupaarai,
Trichirappalli - 1.

2.The Presiding Officer,
Labour Court,
Trichirappalli - 1.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus to call for the records of the second respondent herein pertaining to the award passed in I.D.No.17 of 2001, dated 30.09.2009, quash the same and to direct the first respondent herein to reinstate the petitioner with continuity of service, back wages and other benefits.

For Petitioner : Mr.G.Purusothaman

For Respondents : R2 - Court
Mr.P.Balasubramanian for R1

ORDER

This writ petition is filed by the Workman as against the order of Labour Court confirming the punishment of termination from service.

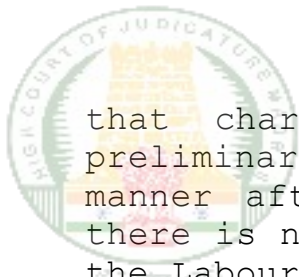
2.The petitioner was a Conductor in the first respondent's Transport Corporation and was in service from 11.03.1994. When the petitioner was on duty in the bus bearing registration No.TN 45 / 0896 (from Dindigul to Trichy), the Checking Inspector made an inspection and found that the petitioner had collected a sum of Rs.19.75 from two passengers and issued tickets for lesser value. In continuation of the incident a charge memo was issued on 05.02.1998. After getting the explanation from the petitioner,



domestic enquiry was also conducted. The Enquiry Officer concluded that the charges were proved. After issuing second show cause notice on 13.03.1998, the petitioner was terminated from the service. As against the order of termination, the petitioner raised an industrial dispute in I.D.No.17 of 2001 before the second respondent. The Labour Court confirmed the order of termination by award, dated 30.09.2009. As against the same, the above writ petition is filed by the writ petitioner/workman.

3.The charges against the petitioner is that on 26.01.1998, while he was operating the trip from Dindigul to Trichy, the petitioner collected a sum of Rs.15.50 (Rs.7.75 x 2) from two passengers who had travelled from Dindigul to Nadupatti. It is further alleged that the petitioner instead of issuing the tickets for the value of Rs.7.75, issued two tickets for Rs.2.25. The first charge is that the petitioner misappropriated a sum of Rs.11 by issuing tickets for a lesser value to two passengers. It is the definite case of the Management that the petitioner had collected a sum of Rs.15.50 from the two passengers, but has issued tickets for lesser value with an intention to misappropriate the money. Though the second charge was that the petitioner refused to hand over the cash bag to the Checking Inspector, this Court need not consider the charge as the Labour Court has given a finding that the second charge is not proved.

4.The Enquiry Officer found that the first charge is proved after considering the evidence of the Checking Inspector and the statement of petitioner himself admitting that he had collected Rs.15.50 from the two passengers. The Labour Court also considered the explanation offered by the petitioner to the charge. The Labour Court found that the petitioner has no consistent case and there is discrepancy in the statement which is given at the time of inspection by the Checking Inspector and later in his explanation to the charges which were issued subsequently. The nature of charge is not a complicate one. But the petitioner made an attempt to complicate by giving an explanation that the passengers to whom the tickets were issued had quarrelled with him for issuing ticket for higher value and therefore he made an adjustment by using two tickets which were given to some other person. The explanation is not proper on the face of it. His explanation is misleading and to dislodge the charge by stating that the petitioner had committed another irregularity by using the tickets which were issued to some other persons. in this case, the Domestic Enquiry was conducted after giving full opportunity to the petitioner. The findings are based on materials and therefore, the Management was very well justified to impose the punishment of termination from service after giving a further opportunity to the petitioner. The Labour Court has considered the evidence elaborately and come to the conclusion



that charges are proved. The Labour Court also passed a preliminary order holding that the Enquiry was conducted in a fair manner after giving full opportunity to the petitioner. Since there is no illegality or irregularity in the Enquiry proceedings, the Labour Court considered the evidence and held that the charges are proved and that there is no illegality in imposing the punishment of termination from service.

5.This Court considered the findings of the Labour Court and found that there is no material irregularity or illegality or perversity in coming to the conclusion that charges against the petitioner are proved. When a Conductor is charged for misappropriation or for not issuing the tickets or by issuing tickets for the value lesser than the amount collected from the passengers, they have to be viewed as serious. It will be a wrong signal to any one who is engaged as a Conductor to commit misappropriation and then come with certain explanation. If the Management is supposed to consider reasons for not adhering to instructions and regulations in respect of charges relating to misappropriation, that will pollute the administration which is not conducive for the Public Transport Corporation to exist and discharge their duties more effectively. In this case, even from the admission of the petitioner the charge is proved. The question is about the acceptance of explanation, whether it is valid or not. Examining the case of petitioner in the factual background, this Court has no hesitation to hold that the findings of the Enquiry Officer and Labour Court are not vitiated by any irregularity or perversity. Then the issue is about the punishment whether it is proportionate to the proved charge. The Management itself while imposing the punishment has considered the past conduct. The petitioner has committed similar irregularities on few earlier occasions.

6.The Honourable Supreme Court has held in similar cases that misappropriation even if the value is small that cannot be permitted in public establishments. In that view, this Court finds no other reason to interfere with the order of the Labour Court.

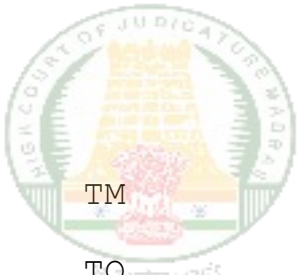
7.Hence, this writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (AS)

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Sub Assistant Registrar (CS)



TO

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Tamilnadu State Transport Corporation
(Kumbakonam Division 2) Ltd.,
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Trichirappalli - 1.

2.The Presiding Officer,
Labour Court,
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+1 CC to M/s.P. BALASUBRAMANIAN, Advocate (SR-90764[F] dated
01/10/2019)

W.P. (MD) .No.1023 of 2011
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