



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM

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

W.P.(MD)No.6200 of 2011

and

M.P.(MD)No.1 of 2011

WEB COPY

The Management,
Tamilnadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye-Pass Road, Collectorate P.O.,
Dindigul - 624 004.

... Petitioner

vs.

1.The Presiding Officer,
Labour Court, Trichy,
Dindigul Camp.

2.The General Secretary,
Tamil Nadu Arasu Pokuvarathu Tholilar
Sangam (CITU),
V.P.Sithan Memorial,
51, Kilaku Arrokiyamatha Theru,
Dindigul.

... Respondents

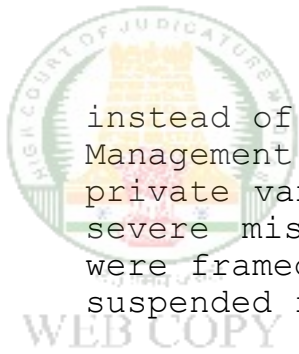
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records on the file of the first respondent pertaining to its proceedings in I.D.No.110 of 2009, dated 05.05.2010 and quash the same.

For Petitioner	: Mr.S.C.Herold Singh
For R2	: Mr.S.Arunachalam

ORDER

This Writ Petition is filed by the State Transport Corporation as against the order of Labour Court, setting aside the order of punishment imposed on the workman, who was represented by the second respondent before the Labour Court.

2.One C.Udhayasuryan was working as Conductor in the petitioner Transport Corporation. While he was engaged in the bus route from Kombaitholu to Theni, the petitioner officials checked the timing of the bus and noticed that the bus taken at 11.00 am



instead of 11.20 from Kadamalagundu to Theni. It is the case of the Management that this was done by the conductor only to facilitate private van operators. Stating that the act of the delinquent is a severe misconduct, as per the certified Standing Orders, charges were framed against the conductor and the delinquent was temporarily suspended from service pending enquiry.

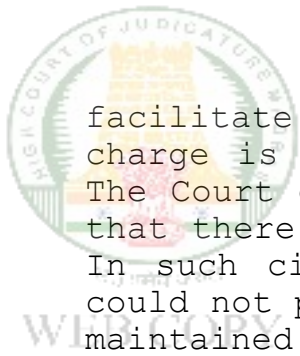
3.After getting explanation from the delinquent on 09.08.2002, the Management directed an enquiry. The Enquiry Officer found that the charge relating to early operation of the bus to facilitate private van operators is proved. After issuing second show cause notice, the petitioner Management awarded the punishment of stoppage of increment for one year without cumulative effect and treating the period of 12 days (period of suspension) as his eligible leave. Challenging the punishment imposed by the petitioner Management, the second respondent raised an industrial dispute in I.D.No.110 of 2009. The Labour Court after recording the reasons, set aside the order of punishment. Aggrieved by the same, the above writ petition is filed.

4.The learned Counsel for the petitioner referring to the findings of the Labour Court, submitted that the findings of the Labour Court are perverse. The learned Counsel further submitted that the Management is helpless in proving the charge, where the delinquent was guilty of operation of Corporation bus in such a manner to help the private van operators and that the case should be looked into in a broad perspective in public interest. The learned Counsel also pointed out that the documents produced by the Corporation would certainly prove the charges against the delinquent. It is further stated that merely because, the charges are not proved beyond reasonable doubt, the Labour Court ought not to have set aside the punishment, as the Management could not produce anything more than the records, which are available and produced. Stating that the conduct of delinquent in facilitating the private van operators will cause loss to the Corporation, it is stated that the minor punishment, which was imposed on the delinquent, ought not have been set aside.

5.The learned Counsel for the respondent, however, submitted that the Labour Court has categorically given a finding that the charges are not proved. He further submitted that the Award of the Labour Court is well founded and supported by reasons.

6.This Court considered the rival submissions and perused the materials available on record.

7.The petitioner, though, has produced some documents, has not examined anyone to prove the statement of allegation or complaints. It is to be seen that the charges are relating to operation of bus by delinquent, ignoring the timings. It is stated



facilitate private van operators. The best evidence to prove such charge is the Time Chart and the statement from the Time Keepers. The Court can take notice of the presence of Time Keeper. The fact that there are records maintained by Time Keeper is not in dispute. In such circumstances, there is no explanation why the petitioner could not produce the records, such as the Time Table and Time Chart maintained by the Time Keeper.

8.From the evidence, the Labour Court has given a finding that the Checking Inspector had wrongly recorded the timings on their own and that the statement could not be reconciled from the chart produced by the Checking Inspector. Therefore, the contention of the second respondent that the complaint was purely on assumption was accepted by the Labour Court. Though one of the charges was that the delinquent had caused loss to the Corporation to facilitate private van operators, it is admitted that the witness of petitioner Management during cross examination has stated that the bus operated by delinquent was full of passengers and that several passengers were travelling in standing position. When it is admitted that the passengers were travelling beyond sitting capacity (by standing position), the finding of the Labour Court is based on merit and this Court is unable to see any perversity.

9.The learned Counsel for the second respondent produced before this Court the judgment of Honourable Supreme Court in the case of **Management of Madurantakam Cooperative Sugar Mills Limited vs S.Viswanathan**, reported in (2005) 3 SCC 193, for the proposition that the findings of Industrial Tribunal is final and the High Court can interfere with the findings only, if the findings are perverse or the conclusions are based on no evidence. In this case, the learned Counsel for the petitioner is unable to point out that the findings of the Labour Court are perverse or based on no evidence. In such circumstances, having regard to the limited scope of judicial review in this matter, this Court is unable to interfere with the findings of the Labour Court.

10.Accordingly, this writ petition is dismissed and the Award of the Labour Court, Trichy, Dindigul Camp, in I.D.No.110 of 2009, dated 05.05.2010 is confirmed. No costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

cmr



To

The Presiding Officer,
Labour Court, Trichy,
Dindigul Camp.

+1 CC to Mr.S.ARUNACHALAM, Advocate SR-89720.

W.P. (MD) No. 6200 of 2011
25.09.2019

CS (15.10.2019) 4P 3C