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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**
and

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

W.A(MD)No.443 of 2019

Thangaraj

... Appellant/Petitioner

Vs.

1.The Management,
Government of Tamil Nadu Transportation
Corporation Limited,
Kumbakonam Division-IV,
Veeran Alagumuthukoan Transportation Corporation,
Pudukottai.

2.The Presiding Officer,
Labour Court, Tiruchirapalli. ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order of this Court in W.P.(MD)No.5754 of 2009, dated 14.12.2017.

Prayer in WP(MD). 5754/ 2009 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the award of the 2nd respondent dated 20/04/2009 in I.D.No. 16 /2004 and quash the same as illegal and direct the 1st respondent to reinstate the petitioner in service with continuity of service with back wages.

For Appellant :Mr.R.Ramasamy

For R1 :Mr.D.Sivaraman

JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is filed by the writ petitioner, wherein, the appellant / writ petitioner challenged the Award of the Labour Court, Tiruchirapalli, dated 20.04.2009, dismissing the petition in I.D.No.16 of 2004.

<https://hcservices.ecourts.gov.in/hcservices/>
2.The brief facts that are necessary for the disposal of this appeal are as follows:



2.1.The appellant was working as a Conductor in the first respondent Corporation. When the appellant was on duty plying from Karaikudi to Trichy, the Checking Inspector intercepted the bus at a village, called Lena Vilakku and checked the tickets from the passengers in the bus. During such inspection, it was detected by the Checking team that the appellant had issued a ticket and collected Rs.10 from a passenger. However, the fare was only Rs.3.50/- The ticket, which was issued to the passenger is valid from Karaikudi to Thirumayam. During checking, it was found that the passenger travelled beyond Thirumayam and on enquiry, the passenger gave a statement that he paid a sum of Rs.10/- and the appellant issued ticket only for Rs.3.50/- and returned only Rs.2.50, instead of Rs.6.50/- Hence, the appellant was charged for the allegation of misappropriation.

2.2.Since the explanation offered by the appellant was not satisfactory, the first respondent appointed an Enquiry Officer and the Enquiry Officer found the appellant guilty of misappropriation. Thereafter, second show cause notice was issued by the Management and the appellant was dismissed from service on 20.09.1996. The order of termination was challenged by appellant before the Industrial Tribunal in I.D.No.16 of 2004. The Tribunal, after elaborately considering the documents produced on both sides, came to the conclusion that the charges against the appellant were proved and the order of termination was justified.

3.Aggrieved by the Award of the Tribunal, the appellant preferred the writ petition in W.P.(MD)No.5754 of 2009. The learned Single Judge of this Court, after carefully going through the materials available on records as well as the submissions of the Counsel appearing on either side, found that the findings of the Tribunal are well founded. Considering the scope of judicial review, which is very limited, the learned Single Judge dismissed the writ petition after giving reasons for justifying the Award of the Labour Court. It is also to be seen that the appellant has also committed similar irregularities earlier and therefore, no leniency or sympathy can be shown to a habitual offender, like the appellant.

4.It is also to be noted that the Honourable Supreme Court in the case of **Karnataka State Road Transport Corporation vs B.S.Hullikatti**, reported in **2001-I-LLJ 725 (SC)**, had an occasion to consider similar issue and it has been held that in cases where the Bus Conductors carry passengers without ticket or issue tickets at a lesser rate than the proper rate, such acts would *inter alia* amount to either being a case of dishonesty or gross negligence and such conduct on the part of the Conductors would result in financial loss to the Road Transport Corporation.



5. We find no reason to interfere with the order of the learned Single Judge of this Court upholding the order of Tribunal. Hence, the writ appeal is dismissed and the order of this Court in W.P.(MD)No.5754 of 2009, dated 14.12.2017 is confirmed. No costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

Cmr

TO

1. The Presiding Officer,
Labour Court, Tiruchirapalli.

+1CC TO MR.D.SIVARAMAN, Advocate Sr. No. 60448

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TR (27.04.2019) 3P 3C