

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 15.04.2019

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**W.P. (MD) .No.9147 of 2019****and****W.M.P. (MD) No.7124 of 2019**

The Management
Tamil Nadu State Express
Transport Corporation
Eettaiyapuram Road
Thoothukudi

... Petitioner

-vs-

K.Thangapandi

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorari to call for the records pertaining to the order of the Labour Court, Tirunelveli passed in C.P.No.143 of 2016 dated 26.04.2017 and to quash the same.

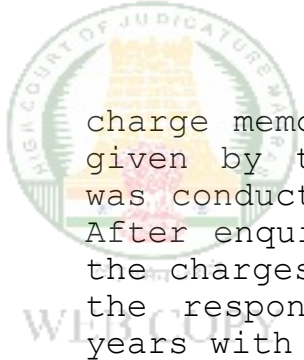
For Petitioner : Mr.K.Sudalaiyandi

For Respondent :No appearance

O R D E R

The instant writ petition has been filed challenging the order dated 26.04.2017 passed by the Labour Court, Tirunelveli in C.P.No.143 of 2016.

2. It is the case of the petitioner that the respondent is working as a driver in their Management from the year 1986. On 30.12.2008, he was directed to drive a bus in route No.625, A- 774 (Thoothukudi- Coimbatore) at 09.30 p.m. He also took the bus at 9.30 p.m from the depot, but he returned back and left the bus in the depot stating that the head lamp of the bus did not give sufficient brightness and he sat down in front of the depot gate. Thereafter the petitioner/ Corporation changed the head lamp and handed over the bus back to the respondent. The respondent also took the bus from the depot. Within a short time, he once again returned to the depot and left the bus stating that the braking system of the bus was not working properly. After repair work, the bus was handed over to him at 10.50 p.m. But the respondent with an intention to delay, took the bus only at 11.15p.m and caused unnecessary trouble to the transport corporation. For the above said act of the respondent, the petitioner/Corporation issued a



charge memo to the respondent on 28.01.2009. Since the explanation given by the respondent was not satisfactory, department enquiry was conducted and the respondent also participated in the enquiry. After enquiry, transport corporation found the respondent guilty of the charges levelled against him and passed punishment order against the respondent on 28.04.2013 postponing his increment for three years with cumulative effect.

3. Against the punishment order, the respondent raised Industrial Dispute in I.D.No.5 of 2014 before the Labour Court, Tirunelveli, which was also allowed by an order dated 24.11.2014. Challenging the said order of Labour Court, the petitioner/Management has filed the instant writ petition in W.P(MD) No. 10995 of 2015 before this Court, which also came to be dismissed on 10.01.2019. C.P.No. 143 of 2016 was filed by the respondent before the Labour Court, Tirunelveli claiming a sum of Rs.3,50,483/- towards difference in increment amount for the punishment period of three years, which was not paid to him by the petitioner/Management. C.P.No.143 of 2016 was filed during the pendency of W.P(MD) No. 10995 of 2015. By an order dated 26.04.2016 in C.P.No.143 of 2016, the Labour Court, Tirunelveli directed the petitioner / Transport Corporation to pay a sum of Rs.3,50,486/- to the respondent. Against the order dated 26.04.2016, passed in C.P.No. 143 of 2016 by the Labour Court, the instant writ petition has been filed.

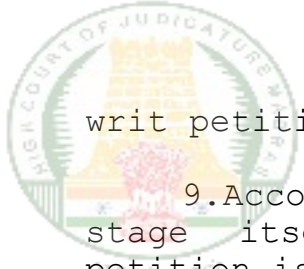
4. Heard Mr.K.Sudalaiyandi, learned counsel for the petitioner.

5. According to the petitioner, the Labour Court had committed grave error by accepting a mere calculation memo filed by the respondent without any sufficient evidence, but allowed the claim petition filed by him. The learned counsel for the petitioner fairly conceded that setting aside the punishment order on the respondent has attained finality, in view of the fact that the writ petition filed by the petitioner/Management against the Labour Court award in W.P(MD) No.10995 of 15 was dismissed by this Court on 10.01.2019.

6. Before the Labour court in C.P.No.143 of 2016, the petitioner/Management have filed their counter. In their counter their only defence was the pendency of the writ petition in W.P(MD) No. 10995 of 2015 and they have not stated as to how much amount the respondent is entitled.

7. The Labour Court has considered the oral and documentary evidence placed on record. Before the Labour Court, three documents were filed on the side of the respondent and the respondent himself was examined as witness. On the side of the petitioner/Management no document was filed nor any witness examined.

8. This Court has perused and examined the impugned order and does not find any infirmity in the same. For the foregoing reasons, this Court is of the considered view that there is no merit in this



writ petition.

9. Accordingly, the writ petition is dismissed at the admission stage itself. No Costs. Consequently connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AS)

// True Copy //

Sub Assistant Registrar (CS)

+1cc to Mr.K.Sudalaiyandi, Advocate, SR.No.60939

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and

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SP/29.04.2019/3P/2C