



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

and

THE HONOURABLE MRS.JUSTICE R.THARANI

Writ Appeal (MD).No.8 of 2018

and

C.M.P. (MD).No.109 of 2018

in

WP(MD) 17266 of 2014

Tamil Nadu State Transport Corporation
(Kumbakonam Division III) Limited,
Marudhupathi,
Managiri Road,
Karaikudi 630 307,
represented by its General Manager.

... Appellant/Petitioner

Vs.

1.K.Ganesan

... Respondent No.1/Respondent No.I

2.The Presiding Officer,
Labour Court,
Madurai.

... Respondent No.2/Respondent No.2

Prayer: Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed in W.P.(MD).No.17266 of 2014, dated 28.10.2014.

Prayer in WP(MD). 17266/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari to call for the records relates to the order passed by the respondent no.2 herein dated 20.6.2013 in ID No.16 of 2009, quash the same and pass such further or other orders as this Honble Court may deem fit.

For Appellant	:	Mr.D.Sivaraman
For R1	:	Mr.A.Rahul

J U D G M E N T

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

This appeal has been filed by the Tamil Nadu State Transport Corporation, challenging the order passed in W.P.(MD).No.17266 of 2014, dated 28.10.2014.



2. Mr.D.Sivaraman, learned Standing counsel appearing for the appellant would vehemently contend that the finding rendered by the Labour Court is utterly traversed as he did not take note of the legal position that the examination of the passenger before the Enquiry Officer is not required, when it is not necessary as held by the Hon'ble Supreme Court in the case of ***State of Haryana v. Rattan Singh*** reported in ***AIR 1977 (SC) 1512*** as well as the recent decision in the case of ***A.P.S.R.T.C. v. G.Murali*** reported in ***2017 III LLJ 257 (SC)***. It is further submitted that the defence set up by the workman is wholly unsustainable and it is a clear case of misappropriation and the Labour Court erred in reinstating the first respondent without any back wages.

3. Mr.A.Rahul, learned counsel appearing for the first respondent would vehemently submit that the Labour Court took into consideration of the factual details and set aside the order of dismissal by holding that there is no misappropriation, but even according to the Management, it is a case of an attempt to misappropriation. In support of his contention, the learned counsel for the first respondent referred to the decision of the Hon'ble Supreme Court in the case of ***U.P. State Road Transport Corporation v. Suresh Chand Sharma*** reported in ***(2010) 6 SCC 555***.

4. We have elaborately considered the submissions on either side and perused the findings rendered by the Labour Court as confirmed by the Writ Court.

5. Before the Labour Court, the Management marked 12 documents as Exs.M1 to M12, but there was no oral evidence on behalf of the Management or that of the workman. The Labour Court noted that the charge framed against the workman is attempting to misappropriation of Rs. 2.50/- and it is not the case of misappropriation. If that is so, the Labour Court held that the passenger would also be examined, because the workman's contention was that the passenger was a ticketless passenger and to save herself, she made such an allegation. After considering the documentary evidence placed by the Management, the Labour Court held that the punishment of dismissal imposed on the workman is not justified and directed the Transport Corporation to reinstate the workman into service with continuity of service excluding the period from 08.02.2004 to 05.10.2008 without back wages and other benefits.

6. The correctness of the award was decided by the writ Court and after taking note of the fact, the writ petition was dismissed. Considering the finding rendered by the Labour Court and the finding of the writ Court, we find that there is absolutely no perversity in the award passed by the Labour Court as well as the writ Court re-examined the matter and come to the correct conclusion. For all the above reasons, the appeal fails and the same is dismissed and the award of the Labour Court is confirmed and the Management is



WEB COPY

Writ Appeal (MD).No.8 of 2018

directed to implement the directions issued by the Labour Court. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar(CS)

akv

To

The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.A.RAHUL, Advocate (SR-94130[F] dated 24/10/2019)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-94420[F] dated 24/10/2019)

Writ Appeal (MD).No.8 of 2018

23.10.2019

_KK/SAR/11.11.2019/3P-4C/