



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.02.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.2210 of 2011

WEB COPY

The Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
Karaikudi Division - 3,
Karaikudi,
Sivagangai District.

.. Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai, Madurai District.

2.R.Kalayanasundaram

.. Respondents

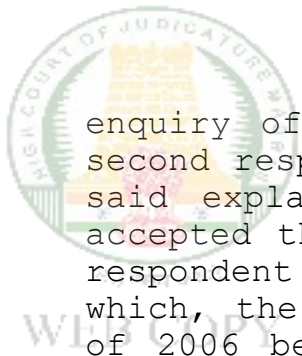
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari calling for the records pertaining to the award dated 20.08.2009 in I.D.No.40 of 2006 on the file of the first respondent and quash the same and pass such further or other orders.

For Petitioner : Mr.P.Thilakkumar
For Respondent No.2 : Mr.S.Arunachalam

ORDER

This writ petition has been filed for issuance of a Writ of Certiorari to call for the records pertaining to the award dated 20.08.2009 made in I.D.No.40 of 2006 on the file of the first respondent and quash the same.

2.The case of the petitioner is that the second respondent was working as conductor in the petitioner corporation. On 29.06.2004, while he was on duty in the bus bearing Registration No.TN-63-N-0575 in Paramakudi-Sayalkudi route, the Checking Inspector checked the bus and it was found that a passenger, who was travelling from Paramakudi-Mudukulathur, was possessing a ticket of Rs.3.50, which is irrelevant to the trip, and the passenger stated that the conductor gave the said ticket after collecting Rs.7.50 from him. Further it was found that he did not issue ticket for Rs.7.50 to another passenger, who was also travelling from Paramakudi to Mudukulathur and accordingly, he caused loss to the petitioner corporation, for which, a charge memo was issued to him on 07.07.2004 and he submitted his explanation on 29.07.2004. Being dissatisfied with the same, domestic enquiry was conducted and the



enquiry officer held that the charges are proved, for which, the second respondent also submitted his explanation. Finding that the said explanation was not satisfactory, the petitioner management accepted the findings of the enquiry officer and terminated the 2nd respondent from service vide proceedings dated 19.03.2005, against which, the 2nd respondent raised an industrial dispute in I.D.No.40 of 2006 before the 1st respondent and the 1st respondent by award dated 20.08.2009, has partly allowed the same and also directed the petitioner corporation to reinstate the 2nd respondent with continuity of service, but without backwages. Against which, the present writ petition has been filed.

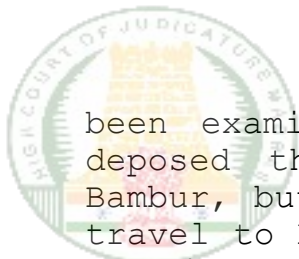
3.The learned counsel for the petitioner submitted that the enquiry officer held that the charges were proved, upon which, the petitioner corporation passed the termination order. But, the 1st respondent Labour Court without considering the materials and evidence produced by the petitioner, has allowed I.D.No.40 of 2006 partly and directed to reinstate the 2nd respondent with continuity of service, but without backwages.

4.The learned counsel for the 2nd respondent submitted that the petitioner submitted his explanation for the charge memo issued to him and since the passenger, who bought ticket for a sum Rs.3.50, for travelling from Paramakudi to Bambur, did not get off from the bus in Bambur and also continued travel to Mudukulathur. The another passenger who have been issued with ticket for a sum of Rs.7.50/-, has missed the ticket. The 2nd respondent did not cause any loss to the petitioner corporation. The above aspects have not been considered by the enquiry officer. The Labour Court after considering the above, has allowed I.D.No.40 of 2006 partly and also directed the petitioner corporation to reinstate him in service with continuity of service, but without backwages.

5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6.The charges against the 2nd respondent are that he issued ticket for a sum of Rs.3.50 after collecting Rs.7.50 from a passenger and also did not issue Rs.7.50 ticket to another passenger and ultimately caused loss to the respondent Corporation. The enquiry officer held that the charges were proved, upon which, the petitioner corporation terminated the 2nd respondent from service. Against which, the 2nd respondent filed I.D.No.40 of 2006 and the Labour Court allowed I.D.No.40 of 2006 partly and also directed the petitioner corporation to reinstate the 2nd respondent with continuity of service, but without backwages.

7.The date of occurrence is on 29.06.2004. Perusal of records shows that in the domestic enquiry, the passenger Solaiappan has



been examined as witness on the side of the 2nd respondent, who deposed that he took ticket for travelling from Paramakudi to Bambur, but he did not get off from the bus in Bambur and continued travel to Mudukulathur. To disprove the same, no evidence has been let in on the side of the petitioner corporation. The enquiry officer, without considering the same, has accepted the case of the petitioner corporation. In the enquiry report, the enquiry officer has also stated that the 2nd respondent issued ticket to all the passengers, who got in the bus in Bambur. It is also seen that the 2nd respondent stated that the another passenger, who has been issued with Rs.7.50 ticket, has missed the ticket and the 2nd respondent has also made all entries in the invoice also. But, the petitioner corporation did not make any objection for the same. The enquiry officer has also erroneously accepted the case of the petitioner corporation. But, the Labour Court after considering the materials and evidence available on record, has allowed I.D.No.40 of 2006 partly and also directed the petitioner corporation to reinstate the 2nd respondent with continuity of service, but without backwages, which, in my considered opinion, requires no interference at the hands of this Court for the simple reason that normally Labour Court or Industrial Tribunal is trial Court of facts and if the finding of the Industrial Tribunal is perverse and not based on legal evidence, then only this Court can invoke Article 226 of the Constitution of India. Here, the Management has not established any perversity or the Management is able to state that the finding is not based on evidence. Accordingly, the writ petition is dismissed. The petitioner management is directed to implement the award of the Labour Court within a period of 8 weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (Crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

To

The Presiding Officer,
Labour Court,
Madurai,
Madurai District.

+1 CC to M/s.P.THILAKKUMAR, Advocate (SR-4690[F] dated 04/02/2020)

ORDER MADE IN

W.P(MD)No.2210 of 2011

03.02.2020

SMA/13/03/2020/3P/3C