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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2020

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.A. (MD) .No.709 of 2020

and

C.M.P. (MD) .No.4190 of 2020

Against WP (MD) No.15771 of 2015

The Management,  
Tamil Nadu State Transport Corporation,  
Madurai Division - I,  
Bye Pass Road,  
Madurai 625 010  
through its General Manager.

... Appellant / Writ Petitioner

Vs.

1. The Presiding Officer,  
Labour Court,  
District Court Building,  
Madurai 625 020.

2. N.Pitchai

... Respondents / Respondents

**Prayer:** The Writ Appeal is filed under Clause 15 of Letters Patent against the order passed by this Court in W.P. (MD) .No.15771 of 2015, dated 25.01.2019.

**Prayer in WP (MD) . 15771/ 2015 :**

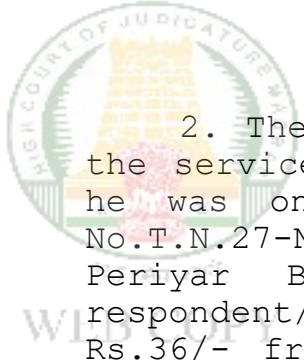
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CETIORARI calling for the records on the file of the 1st respondent in I.D.No.4/2013 dated 09.04.2015, quash the same and pass such further orders as may be deemed fit and proper.

For Appellant : Mr.J.Senthil Kumaraiah

For R2 : Mr.S.Arunachalam

**J U D G M E N T**

(Judgment of the Court was delivered by **M.SATHYANARAYANAN, J.**)  
<https://hcservices.ecourts.gov.in/hcservices/>  
By consent, the writ appeal itself is taken up for final disposal.



2. The second respondent herein was employed as a conductor in the service of the appellant Corporation from 03.01.1990 and while he was on duty on 18.12.2006, in a bus bearing Registration No.T.N.27-N-1141, which was plying between Chinnakasampatti and Periyar Bus Stand, a checking was done and the second respondent/writ petitioner was found to have received a sum of Rs.36/- from two passengers for their travel from that place to Tallakulam and for their four luggage, he had not issued tickets and thereby the second respondent/writ petitioner misappropriated a sum of Rs.36/-. The second respondent was suspended from service on 22.12.2006 and he was proceeded with departmentally and the second respondent submitted his explanation for the charge memo dated 19.01.2007 and not satisfied with the same, a domestic enquiry was ordered and on conclusion, Enquiry Officer has held that the charge against the second respondent had been proved and after following all the formalities, he was dismissed from service on 11.11.2018. The second respondent, aggrieved by the same, raised an industrial dispute in I.D.No.4 of 2013 before the first respondent/Labour Court. During the course of enquiry, on behalf of the appellant/Management, four documents have been marked and no oral and documentary evidence were let in on behalf of the second respondent/workman.

3. The Labour Court, taking note of the contents of the enquiry report, in Paragraph No.13 of the award dated 09.04.2015, in I.D.No.4 of 2013, has found that at the time of inspection, the trip was not completed and the checking was done in between Chatrapatti. That apart, the details of uncounted money has also not been produced. In the light of the same, it cannot be said that the second respondent/workman is found guilty.

4. The Labour Court has found that though it was claimed that the statements of the two passengers from whom the amount was collected and the tickets were not issued were recorded, the said statements have not been produced and so also the statement of the second respondent/workman. That apart, only Checking Inspector was examined. The first respondent/Labour Court has also found that the amount collected was also uncounted and no evidence has been adduced and perused and thus, the charge of misappropriation has not been proved. The first respondent/Labour Court, in the light of the said categorical finding, concluded that the second respondent/workman is entitled to reinstatement and continuity of service from 12.11.2008 to 29.03.2010 and the periods from 19.02.2011 to 23.01.2013 have to be deducted and also rejected the backwages and other benefits. The Management, aggrieved by the said award, filed W.P.(MD).No.15771 of 2015 and it was entertained. The learned Single Judge, after taking note of the contents of the impugned award and other materials, found that the Labour Court is entitled to re-appreciate the entire evidence and come to an independent conclusion and the reasons are also cogent and recording the said finding, has dismissed the writ petition with the consequential direction and aggrieved by the same, the present writ appeal has been filed.



5. The learned counsel appearing for the appellant/Management would submit that the duty performed by the second respondent/workman, was in the nature of trust and though he collected amount from the two persons, they did not receive tickets, and in respect of the charge framed, he has not straight away offer any satisfactory explanation and domestic enquiry was conducted and the Enquiry Officer has also concluded that the charge framed against him has been proved and further the labour Court without considering the facts and other materials, had reached an erroneous conclusion and prays for interference.

6. Per contra, the learned counsel appearing for the second respondent/workman would submit that with regard to the finding rendered by the first respondent/Labour Court, there may be interference, provided the findings are based upon no evidence and on perversity, has drawn the attention of this Court to the contents of the award passed by the first respondent/Labour Court and would submit that during the course of enquiry, the Management let in documentary evidence and the first respondent/Labour Court having found that necessary evidence is lacking, has rightly reached the conclusion and taking into consideration the interest of the Management also passed an order of reinstatement and prays for dismissal of this writ appeal.

7. This Court has carefully considered the rival submissions and also perused the materials placed before this Court.

8. A perusal of the contents of the award passed by the first respondent/Labour Court, would disclose that the checking was done in between Chatrapatti, the exact amount of misappropriation also has not been found and that apart, though the statements have been recorded from two passengers, who said to have paid the ticket charges and did not collect the tickets, have not been placed and that apart, the statements said to have been given by the second respondent/workman at that time was also not filed. The Labour Court further found that only Checking Inspector was examined and though it was claimed that what was the balance amount available has also not been found and taking note of the said infirmities, has rightly reached the conclusion and granted partial relief to the second respondent.

9. As rightly pointed out by the learned counsel for the second respondent/workman, in the absence of perversity, and the finding is based upon no evidence, the scope of interference for the appellate jurisdiction under Clause 15 of the Letters Patent is very limited.

10. In the considered opinion of the Court, the Labour Court, on an exhaustive analysis of the evidence and materials, has rightly reached the conclusion and granted partial relief in favour of the second respondent/workman and the findings rendered in the writ petition, are also based upon re-appreciation of relevant materials.



11. This Court, on an independent application of mind to the entire materials and also the reasons assigned by the first respondent/Labour Court as well as the learned single Judge finds no merit in this writ appeal.

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12. In the result, the writ appeal is dismissed, confirming the order dated 25.01.2019 in W.P.(MD).No.15771 of 2015. No costs. The appellant/Management is directed to comply with the award passed by the first respondent/Labour Court, as confirmed in the writ petition as well as in this appeal with consequential and other benefits, within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

Note:In view of the present lock down owing to COVID -19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,  
Labour Court,  
Madurai.

**W.A. (MD) .No.709 of 2020**

**and**

**C.M.P. (MD) .No.4190 of 2020**

**28.08.2020**

akv

SDS (18.09.2020) 4P-2C