



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.01.2020
CORAM:**

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. (MD) No.627 of 2014
and
M.P (MD) .No.1 of 2014**

1.The General Manager
Tamil Nadu State Transport Corporation
Madurai Division, Ranithottam
Nagercoil Region, Nesamony Nagar
Kanyakumari District

2.The Manager Director
Tamil Nadu State Transport Corporation
Madurai Division
Now, the Managing Director
Tamil Nadu State Transport Corporation
Tirunelveli Limited
Tirunelveli

... Petitioners

vs.

1.The Presiding Officer
The Labour Court
Tirunelveli

2.A.Manikandan Nair

... Respondents

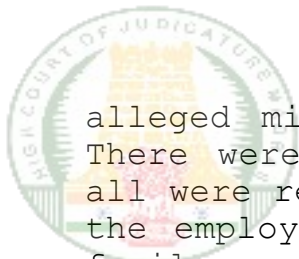
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari, calling for the records from the first respondent, Labour Court, Tirunelveli relating to the award passed by it in I.D.No.28 of 2008 dated 29.10.2012 and quash the same.

For Petitioners : Mr.K.Sathya Singh
For R1 : Court
For R2 : Mr.M.Gnanagurunathan

O R D E R

The Writ petition has been filed to call for the records from the first respondent, Labour Court, Tirunelveli relating to the award passed in I.D.No.28 of 2008 and quash the same.

2. The second respondent herein was appointed as Record Clerk in the petitioners Corporation on 16.08.1991. While so, the first charge memo was issued to the second respondent on 07.08.2004 for

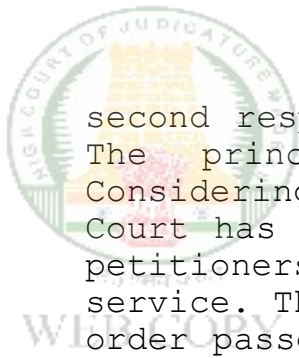


alleged misconduct held during the financial years 2002 to 2005. There were ten charges levelled against the second respondent and all were related to discrepancies in issuing the free family pass to the employees as well as misuse of the same, whereby, he used the family pass to more distance than the prescribed limit. Therefore, a domestic enquiry was conducted by the petitioners Corporation and an order of reduction in salary was passed on 03.03.2005. Accordingly, a sum of Rs.3202/- was recovered by an order dated 09.08.2005. Thereafter, the petitioners Corporation had issued another charge memo, dated 01.12.2004 for the same financial years 2002 - 2005 levelling 21 charges of the same kind and alleged that the second respondent had caused loss of Rs.1,05,680/- to the Corporation. After conducting domestic enquiry, the second respondent was removed from service by an order dated 05.04.2007. Challenging the said removal order, the second respondent has raised an industrial dispute before the Labour Court, Tirunelveli in I.D.No.28 of 2008. After hearing the case, the Labour Court has passed an award dated 29.10.2012 where the order of dismissal was set aside and directed the petitioners Corporation to give appointment to the second respondent with continuity of service and also directed to pay the consequential monetary benefits to him. The Labour Court passed an award by taking into consideration that the copy of documents relied on by the petitioners Management was not furnished to the delinquent and he was not even allowed to peruse the documents. The statements of management witnesses alone were marked and none of them were examined in the presence of delinquent, thereby, he lost his right to cross examine. The delinquent was also sought for permission to examine four persons on his side, but the same was refused. The second respondent was only a record clerk. For issuing free family pass, the Branch Manager is the issuing authority. But, the Management neither issued charge memo nor examined them as witness. Considering all the above facts, the Labour Court set aside the order passed by the petitioners Corporation and directed the petitioners Corporation to reinstate the second respondent into service with continuity of service and back wages. Aggrieved against the said order, the petitioners Corporation are before this Court.

3.The petitioners Management had stated that the second respondent had misused the free family pass and therefore, he was removed from service. Hence, the learned counsel for the petitioners would pray for setting aside the award passed by the Labour Court, Tirunelveli in I.D.No.28 of 2008.

4.Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the second respondent.

5.The Hon'ble Apex Court as well as this Court had time and again held that the ample opportunities should be given when the major punishment is imposed on the delinquent. In this case, there was no opportunity given to the second respondent to substantiate



second respondent and thereby, he lost his right to cross examine. The principles of natural justice is completely violated. Considering all the facts and circumstances of the case, the Labour Court has correctly set aside the order of dismissal passed by the petitioners Corporation and reinstated the second respondent into service. Therefore, this Court is not inclined to interfere with the order passed by the Labour Court, Tirunelveli in I.D.No.28 of 2008, dated 29.10.2012.

6. Accordingly, this Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

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Sub Assistant Registrar (CS)

Msa

To

The Presiding Officer
The Labour Court
Tirunelveli

+1 CC to Mr.M.GNANAGURUNATHAN, Advocate (SR-191[F] dated
03/01/2020)

W.P. (MD) No.627 of 2014

and

M.P(MD) .No.1 of 2014

03.01.2020

MK (04.02.2020) 3P 3C