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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2021

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THE HONOURABLE MR.JUSTICE T.RAJA

and

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.No.1537 of 2013 and M.P.No.1 of 2013

Against W.P. No.28038 of 2008

The Management of Tamilnadu,
State Transport Corporation
(Villupuram Division III) Ltd.,
(Formerly Pattukkottai Alagiri
Transport Corporation Ltd.),
Rangapuram Vellore-9,
rep. by its General Manager

... Appellant/Petitioner

-vs-

1. The Presiding Officer,
I Additional Labour Court,
Chennai.

2. P.Pandian

... Respondents/Respondents

Prayer:

Writ Appeal filed under Clause 15 of the Letters Patent against the order passed in W.P. No.28038 of 2008 dated 02.04.2012 by the Honourable Mr.Justice K.Chandru.

W.P. No.28038 of 2008:-

This Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records made in I.D.No.655 of 2001 Dated 31/01/2008 on the file of the 1st respondent and quash the same

For Appellant

: Mr.C.S.K.Sathish
Standing Counsel for
Transport Corporation



For Respondents : R1 - Court
Mr.K.V.Dhanapalan for R2

JUDGMENT

WEB COPY (Judgment of the Court was delivered by T.RAJA, J.)

This writ appeal has been brought by the Management of Tamil Nadu, State Transport Corporation to interfere with the impugned order dated 02.04.2012 passed by the learned Single Judge, dismissing the Writ Petition No.28038 of 2008 and confirming the Industrial Dispute No.655 of 2001 dated 31.01.2008 passed by the I Additional Labour Court, Chennai, giving direction to the appellant to re-instate the second respondent in service with back wages, continuity of service and all other attendant benefits from the date of filing the I.D.

2.Learned counsel appearing for the appellant submitted that when the second respondent was served as Driver in the appellant Corporation, he was not allotted work on 17.08.1994. Therefore, he went to the rest room to take rest. While so, when he was having conversation with his co-worker, the mirror fell down and broke into pieces, however, the second respondent has replaced the same by using his own money. On 07.09.1994, the second respondent was issued with a charge memo alleging that on 17.08.1994 at 17.35 hours, when the second respondent was in drunken mood passed urine in the rest room, he used to pick up an un-necessary quarrel with the Conductor one Rajendran in the depot. After issuance of the said charges, he gave his explanation. Being not satisfied with the explanation offered by the second respondent, on the basis of the findings given by the Enquiry Officer, the second respondent was terminated from service. Aggrieved thereby, when an Appeal was filed by the second respondent, the same was dismissed. Therefore, the second respondent approached the Conciliation Officer by raising a dispute, which also ended in failure report. Hence, the second respondent filed the above Industrial Dispute No.655 of 2001 before the I Additional Labour Court, Chennai to set aside the termination order and to re-instate him in service with back wages, continuity of service and other attendant benefits alleging that domestic enquiry conducted against him was not fair and proper. Learned counsel appearing for the appellant further submitted that when there were two important witnesses, namely, Security Guard and one Rajendran, who was assaulted by the second respondent and the said evidences were believed by the Enquiry Officer, the Labour Court brushing aside the veracity of the evidences given by them, set aside the order of removal from service and directed the appellant to re-instate him in service with back wages, continuity of service and other attendant benefits from the date of filing the I.D. Aggrieved



thereby, the matter was brought before the learned Single Judge in W.P. No.28038 of 2008 and the infirmity committed by the Labour Court was demonstrated with sufficient evidence that the findings given by the Labour Court was wrong.

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3.Learned counsel appearing for the appellant further submitted that when the Security Guard was examined as appellant Management witness along with the Conductor Rajendran, who was assaulted by the delinquent employee, these evidences cannot be brushed aside. However, the learned Single Judge came to the conclusion that the Conductor Rajendran appears to be an interesting witness for the simple reason that after advancing loan to the second respondent, finding difficulty to get back the money from him, he has foisted the false case. In spite of the evidences adduced by Security Guard and Rajendran, who deposed that the second respondent quarrelled with him and beaten him, the Labour Court, accepting the explanation offered by the second respondent that he himself appeared before the Enquiry Officer and stated that when he was going closely to the wall, the mirror fell down and he has replaced the same by using his own money, has come to the conclusion that there was no sufficient evidence to nail the second respondent. Therefore, the order passed by the learned Single Judge needs interference.

4.As the learned Single Judge, after analysing the findings and conclusions reached by the Labour Court, has reached conclusion that the Enquiry Officer has not reached reasonable conclusion, we are not able to find any way to depart from the conclusion reached by the learned Single Judge. Secondly, learned counsel appearing for the appellant submitted that the second respondent, on reaching the age of superannuation, was allowed to retire from service, after he was re-instated in service, without prejudice to the writ appeals. Since the second respondent was retired from service during June 2016 and was paid with provisional pension, finding no infirmity in the impugned order, we are inclined to dismiss the appeal. Accordingly, the writ appeal fails and the same is dismissed. Consequently connected M.P. is closed. No costs.

5.Needless to mention that the appellant shall pay the regular pension to the second respondent from the date on which he was entitled to.

Sd/-
Assistant Registrar(CO-IX)

//True Copy//

Sub Assistant Registrar

vga



To

The Presiding Officer,
I Additional Labour Court,
Chennai.

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+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No.35286

+1cc to Mr.T.Fennwalter, Advocate, S.R.No.35457

W.A.No.1537 of 2013 and M.P.No.1 of 2013

NR(CO)
CT(19/08/2021)