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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 26.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18771 of 2004
(Through Video Conference)

Tamil Nadu State Transport Corporation
Kumbakonam Division Limited
Railway station New Road
Kumbakonam 612 001

... Petitioner

Vs

1) The Presiding Officer,
Labour Court,
Cuddalore.

2) K.Ramdas (deceased)

3) R.Padmini

4) R.Ramesh

5) R.Anandhakumar

6) R.Varalakshmi

... Respondents

(R3 to R6 were substituted vide order
dated 15.10.2019 in WPMP No.16431/2006)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the entire records culminating in the passing of the Award dated 03.07.2003, on the file of the first respondent herein, made in I.D.No.64 of 1995, quash the same.

For Petitioner : Mr.D.Venkatachalam

For Respondent-3 to 6 : No appearance

O R D E R

The management has come forward with the present writ petition challenging the award of the labour Court dated 03.07.2003 in I.D.No.64 of 1995, wherein, the employee has been



deprived of back wages from 17.06.1988 to 16.06.1995 as punishment and that the employee could be entitled to all other benefits with effect from 16.06.1995.

2. Heard the learned counsel for the petitioner Management and perused the material documents available on record.

3. According to the Management, the employee has misappropriated a sum of Rs.6/- and that the past records of the employee is also bad and that for the serious misconduct committed by the employee, the labour Court ought not to have granted any relief. Even assuming that the labour Court award is correct, the labour Court should have imposed a punishment of misconduct said to have been upheld by the Court.

4. It is not in dispute that the employee was issued with a charge memo on 18.01.1998, based on which, enquiry was conducted and not accepting the explanation, a dismissal order dated 17.06.1988 was imposed for misappropriation of Rs.6/-. The labour Court has already deprived the back wages as punishment from 17.06.1988 to 16.06.1995 for seven years and the contention that the labour Court ought to have imposed any other punishment apart from depriving back wages cannot be accepted. The powers of the labour Court under Section 11-A of the Industrial Dispute Act is wide, even in a proved misconduct, otherwise the purpose of introduction of Section 11A itself is defeated and redundant.

5. The Apex Court in B.C.Chaturvedi vs. Union of India and others, reported in 1996 AIR 484 has held that the powers of the labour Court are much wider and the relevant portion of the order is extracted below:

"22. The aforesaid has, therefore, to be avoided and I have no doubt that a High Court would be within its jurisdiction to modify the punishment/penalty by moulding the relief, which power it undoubtedly has, in view of long line of decision of this Court, to which reference is not deemed necessary, as the position is well settled in law. It may, however, be stated that this power of moulding relief in cases of the present nature can be invoked by a High Court only when the punishment/penalty awarded shocks the judicial conscience."

6. The only contention of the employer is that apart from depriving the wages for seven years, another punishment should have been imposed cannot be accepted, as already the labour Court has deprived the employee seven years wages by way of punishment. The date of birth of the employee is 1942 and he is



almost 80 years now. Since the labour Court award is finding on fact, this Court is not inclined to interfere with the same. The labour Court has referred to the nine punishments and held that the same could not be considered, as a serious one, to impose a capital punishment to the employee.

7. The Hon'ble Gauhati High Court in the case of Workmen of Tanganagaon Tea Estate vs. Management of Tanganagaon Tea Estate and others reported in (1987) 2 LLJ 491 has observed as follows:

"14. It is a fundamental principle of justice that punishment should be commensurate with the guilt. 'Judex acquitatem semper spectare debet: a Judge ought always to have equity before his eyes'

.... As regards antecedents, unless the workman was earlier punished after disciplinary enquiry, no inference of guilt could be normally drawn."

8. The Hon'ble Supreme Court, while dealing with the dismissal of an employee therein in the case of R.M.Parmar vs. Gujarat Electricity Board, reported in (1983) 1 LLJ 261, has observed as under:

"3.(2) The State does not provide social benefits like unemployment allowance to enable a discharged employee to sustain himself and his family to some extent, as is being done in the developed countries.

(4) Be it administration of criminal law or the exercise of disciplinary jurisdiction in departmental proceedings, punishment is not and cannot be the 'end' in itself. Punishment for the sake of punishment cannot be the motto. Whilst deliberating upon the jurisprudential dimension the following factors must be considered -

(1)

(2) The main purpose of a punishment is to correct the fault of the employee concerned by making him more alert in the future and to hold out a warning to the other employees to be careful in the discharge of their duties so that they do not expose themselves to similar punishment. And the approach to be made is the approach parents make towards an erring or misguided child."



9. In view of the above discussions, the award of the labour Court is confirmed. Accordingly, the writ petition is dismissed. However, there shall be no order as to costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

RR

To

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.35505

W.P.No.18771 of 2004

VSN-II (CO)
HS (25/08/2021)