



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.07.2021

CORAM

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25692 of 2004
and WMP.No.31227 of 2004

Tamilnadu State Transport Corporation
(Salem) Ltd, Salem.

Rep by its Managing Director.

... Petitioner

-vs-

1. The Presiding Officer,
Labour Court, Salem.

2. M.Udayasurian

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records of the 1st respondent in I.D.No.667 of 2000 dated 13.10.2003 and quash the same.

For Petitioner	: Mr.K.Thangam
	For Mr.D.Raghu
For R2	: Mr.K.V.Shanmuganathan

O R D E R

This Writ Petition has been filed by the Transport Corporation, challenging the order dated 13.10.2003 passed by the 1st respondent in I.D.No.667 of 2000, by which the Employee / 2nd Respondent herein was directed to be reinstated with continuity of service and other attendant benefits, but without back wages.

2. It is the case of the Petitioner / Management that the Employee worked as a Conductor in the Management and he was unauthorisedly absent from duty from 29.03.2000 to 04.04.2000, 22.04.2000 to 27.04.2000, 30.04.2000 and from 03.05.2000 onwards. The Employee, after issuance of charge memo dated 25.05.2000 and a detailed enquiry, was dismissed from service on 10.08.2000. Against the order of dismissal, the employee raised an Industrial Dispute and the Labour Court came to the conclusion that the punishment is excessive and interfered with the punishment.



2.1. It is further case of the Management that charges have been duly established in the Domestic Enquiry and the past records of the Employee were also bad. Therefore, the Labour Court, though deprived the back wages, ought not to have directed the reinstatement of the Employee with continuity of service and other attendant benefits.

3. Learned counsel for the Employee contended that for absence from duty, the punishment imposed on the Employee is disproportionate to the charges and therefore, the award of the Labour Court does not call for any interference by this Court.

4. Heard both sides and perused the materials available on record.

5. It is not in dispute that the Employee was absent from duty and the Employee had not produced the Medical Certificate at the time of enquiry and produced it only before the Labour Court. Hence, the labour Court came to the conclusion that even though the past record of the Employee was bad, the Employee was not informed about the past records and has been apprised of it only in the second show cause notice. The labour Court, taking note of the fact that the Medical Certificate obtained from the Doctor is an acceptable one and after obtaining assurance from the Employee that he would be punctual in work, has interfered with the order of dismissal, in terms of the powers adumbrated under Section 11 (A) of the Industrial Disputes Act.

6. I find that the award of the Labour Court cannot be said to be perverse and it is based on a finding of fact. The Labour Court has got ample powers to interfere with the punishment, as the punishment of dismissal for absence from duty, is harsh. The Supreme Court, in the case of Union of India and another Vs B.C.Chaturvedi, reported in (1995) 6 SCC held that powers of the Labour Court are wider. The Labour Court, in order to render a substantial justice, has rightly deprived the back wages from the date of dismissal till the date of the award. Hence, I find no reason to interfere with the award.

7. Accordingly, the Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dpq



To:

The Presiding Officer,
Labour Court, Salem.

+1CC to Mr.D.Raghu, Advocate, Sr.No.37472

W.P.No.25692 of 2004

KSM (CO)

K.RK. (01.11.2021)