



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.1646 of 2018
C.M.P.No.13280 of 2018

The Management,
Metropolitan Transport Corporation,
Pallavan Salai, Chennai-600 002.

.. Appellant

Vs

1.The Presiding Officer,
I Additional Labour court,
Chennai-600 104.

2.K.Veeraswamy

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 22.03.2018 made in W.P.No.9361 of 2009.

Prayer in W.P.No.9361 of 2009:

Writ Petition filed under Article 226 of the Constitution of India Praying for issuance of a Writ of Certiorari calling for the records of the first respondent made in I.D.No.375 of 2005 dated 28.9.2007 on the files of the first respondent and quash the same.

For Appellants : Mr.K.Moorthy

For Respondents : Mr.K.M.Ramesh for R2
R1 - Court

JUDGMENT

(Delivered by M.M.SUNDRESH, J.)

This appeal has been preferred by the appellant against the order of the learned single Judge, who after taking note of the findings of the Labour Court, concurred with it and dismissed the writ petition filed.



2.The second respondent-employee is the Driver of the appellant. He met with an accident while returning after completion of his day's work in a Metropolitan Transport Corporation bus. The charge against him was one of unauthorised absence.

3.Before the Enquiry Officer, the second respondent has produced adequate documents to show that he was taking treatment as an inpatient pursuant to the abovesaid accident. The Enquiry Officer held that the charges are proved. The Disciplinary Authority concurred with it and imposed the punishment of dismissal from service. On a dispute raised by the second respondent-employee, the Labour Court set aside the order of dismissal inter alia holding that the numerous documents not disputed as could be seen under Ex.M9 indicating the nature of treatment undertaken by the second respondent as in-patient in the hospital pursuant to the accident occurred have not been given due credence. The learned single Judge took note of the abovesaid factum and dismissed the writ petition.

4.Mr.K.Moorthy, learned counsel appearing for the appellant submitted that the second respondent has not informed about the treatment taken. There was prior occurrence involving the respondent. Therefore, the award as confirmed by the learned single Judge would require interference.

5.Mr.K.M.Ramesh, learned counsel appearing for the second respondent-employee submitted that the accident took place while the second respondent was travelling in the Metropolitan Transport Corporation bus. Thus, nothing can be attributed for the accident to the second respondent. In such view of the matter, all his past conduct cannot be taken into consideration. The documents filed were not denied or disputed. They have been taken note of duly by the Labour Court and the learned single Judge.

6.The power of the judicial review over the award of the Labour Court while invoking Article 226 of the Constitution of India is rather limited. The Court is concerned with the process than the assessment of materials. We need not reiterate the scope of Section 11-A of the Industrial Disputes Act. The Labour Court, in our considered view, correctly held that the documents produced by the second respondent have not been taken into consideration. The charge is one of unauthorised absence and not that of not duly intimating the appellant. As



rightly submitted by Mr.K.M.Ramesh, learned counsel for the second respondent, the occurrence do not have any rationale to the case on hand. The second respondent does not have any role in the accident as he was only a passenger travelling in the bus.

7.In such view of the matter, we do not find any error warranting interference. The writ appeal stands dismissed. No costs. Consequently, connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

raa/mmi

To

The Presiding Officer,
I Additional Labour court,
Chennai-600 104.

+lcc to Mr.K.M.Ramesh , Advocate SR.No. 28839

+lcc to Mr.K.Moorthy , Advocate SR.No. 28762

W.A.No.1646 of 2018

KV(CO)

B.VC(23.07.2021)