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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2021

CORAM

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

W.P. No. 26451 of 2016
and
W.M.P. No. 22672 of 2016

The Management,
Represented by its General Manager,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
37, Mettupalayam Salai,
Coimbatore - 43.

... Petitioner

-vs-

1. P.Durairaj,
Conductor, No.010234,
Pollachi - 3, L-127, Police Colony,
Bharathi Nagar, Ganapathy Post,
Coimbatore - 6.

2. The Special Duty Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records passed by the second respondent in A.P. No. 176 of 2013 dated 09.12.2015 and to quash the same.

For Petitioner : Mr.A.Sundaravadanam

For Respondents : Mr.V.Ajay Khose for R1
Mr.L.S.M.Hasan Fizal
Government Advocate for R2

O R D E R

Petitioner / Transport Corporation has come up with this Writ Petition challenging the order dated 09.12.2015 passed by the second respondent in Approval Petition No.176 of 2013.

2. It is represented by the learned counsel for the petitioner / Transport Corporation that, the first respondent /



employee joined the services of the Petitioner-Transport Corporation as a Conductor. While the first respondent was on duty on 02.07.2012, it was found that, the first respondent has collected Rs.10/- from two passengers (Rs.4/- per ticket) and he had issued one ticket, i.e., Ticket No.YMA 38-082216. The first respondent has failed to issue ticket for Rs.4/- and the balance amount of Rs.2/-. Thereafter, it was found that, the first respondent was having a sum of Rs.164/- less than the collection amount and irregularity report was received from the petitioner / Transport Corporation by the Ticket Checker. Since the above misconduct was grave in nature, a Charge Memo dated 10.07.2012 was issued to the first respondent followed by the suspension order.

3. It is seen that, the Labour Court rejected the Approval Petition filed by the petitioner / Transport Corporation on 09.12.2015 on the ground of misconduct by the employee / first respondent.

4. The learned counsel for the petitioner / Transport Corporation contended that, the decision taken by the second respondent / Authority is beyond his scope and it is not in consonance with the guidelines framed by the Apex Court in the decision rendered in the case of Lalla Ram vs. Management of D.C.M. Chemical Works Ltd. reported in AIR 1978 SC 1004. According to the learned counsel, even hearsay evidence is admissible to establish misconduct cases.

5. Today, when the matter is taken up for hearing, the learned counsel appearing for the first respondent / employee submitted that, the first respondent accepted the proposal given by the Government vide Letter No.5370/C2/2021, dated 24.07.2021 in respect of Clause No.2(i) alone. For better appreciation, the said clause is extracted hereunder:

2. There were 283 cases, except TNSTC (MDU) placed before the Board for discussion. After detailed deliberations, the following decisions were taken:

(i) In respect of Ex-employees having required qualifying service for pension under 1998 Scheme to go on compulsory retirement on the date of dismissal and to allow eligible retirement benefits as per Rules in force.

6. Taking note of the submissions of the learned counsel on either side and as the first respondent / employee has agreed to accept clause 2(i) of the proposal made by the Government, the



first respondent / employee is permitted to go on compulsory retirement on the date of dismissal and he is entitled to eligible retirement benefits, such as Gratuity, Pension and Provident Fund, as per the Rules in force.

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7. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vji

To

The Special Duty Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.37265

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KG(CO)
CT(21/09/2021)