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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.2843 of 2014 and
M.P No.1 of 2014

The Managing Director,
Tamilnadu State Transport Corporation Ltd,
Kumbakonam Division-I,
Railway Station Road,
Kumbakonam.

... Petitioner

-vs-

1. K.Amirthalingam
2. The Presiding Officer,
Labour Court, Cuddalore,
Cuddalore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari to call for records of the 2nd respondent made in I.D.No.300 of 2007 dated 21.02.2013 and quash the order as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.D.Venkatachalam

For Respondents: Ms.M.Sangeetha
for Mr.G.Purushothaman (R1)
No appearance (R2)

O R D E R

This Writ Petition has been filed challenging the order of the second respondent made in I.D.No.300 of 2007 dated 21.02.2013 and quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

2. The case of the Petitioner/Management is that the second respondent joined services of the Management as a Conductor in the year 1991 and he was carrying money lending business illegally and without any proper authorizations, which



leads to major misconduct. It is further stated that on 08.09.2003, the second respondent was allotted second shift duty in Route No.A30 and despite instructions being given to him from the bus stand Engineer and Branch Manager of the Management, the second respondent failed to take the bus for the reasons known to him. Further, on 15.09.2003 at 11.00 P.M., the second respondent along with two other social elements attacked the Divisional Manager, resulting in grave injury, for which a criminal case has been registered against him and thereafter the second respondent was placed under suspension on 26.09.2003. A charge memo was issued to him on 01.10.2003, for which the second respondent submitted explanations dated 08.10.2003 and 29.03.2004. The Enquiry Officer, vide report dated 29.10.2004, found him guilty of the charges.

3. Thereafter, a notice was issued to him seeking explanation for which the second respondent gave his explanations on 21.12.2004 and 16.03.2005. A second show cause notice was issued on 16.04.2005 and the second respondent submitted his explanation on 25.04.2005. Since, the same was not satisfactory, an order of dismissal was passed against the second respondent on 05.05.2006.

4. Feeling aggrieved by the same, the second respondent raised an industrial dispute before the first respondent, in I.D.No.300 of 2007, seeking reinstatement with continuity of service and back wages and other attendant benefits. The Labour Court passed an award dated 21.02.2003 by ordering reinstatement with continuity of service and without backwages and other benefits. Challenging the same, the present writ petition has been filed.

5. The learned counsel appearing for the First Respondent/employee submitted that the Labour Court on finding that the charges against the First Respondent/employee were not proved, has rightly set aside the punishment of dismissal from service and granted reinstatement with continuity of service and without backwages and other benefits and therefore, the order of the Labour Court requires no interference.

6. Heard both sides. Perused the records.

7. The charge against the employee/Second Respondent is that he assaulted his superior officer and apart from criminal case, a departmental proceeding has also been initiated against him. Both the cases were proceeded independently. In the Criminal Court, the employee got acquittal and therefore, as against the order of dismissal from service, the employee approached the Conciliation Officer for conciliation, which ended in failure ultimately giving raise to an Industrial Dispute, wherein the respective parties have contested the disputes, by producing 38 documents on behalf of the workman and 34 documents on the side of the Management. The workman has



examined himself as W.W.1 and none was examined on behalf of the Management.

8. On considering both oral and documentary evidence, the Labour Court has interfered with the dismissal order of the Second Respondent by observing that he worked in the Management for 17 years, as per Ex.W38 circular issued by the Management. It was further observed that in case of acquittal from criminal case, the said aspect has to be taken note of and as per Ex.W33-Judgment the second respondent was acquitted from the criminal case. Therefore, the Labour Court inferred that the charges against the second respondent were not proved and thereby granted the relief of reinstatement with continuity of service only and the relief of backwages and other attendant benefits were denied.

9. No doubt, the Labour Court had got powers to interfere with the charges/finding of the Enquiry Officer, if it is perverse. As per Section 11-A of the Industrial Disputes Act, the Labour Court can interfere with the punishment imposed on an employee, for proved acts of misconduct and such interference should not be on the ground of misplaced sympathy and it should be only in exceptional circumstances, where the punishment is found to be disproportionate to the charges.

10. It is pertinent to the state here that, both the criminal case and departmental enquiry are independent of each other and the finding of the Civil Court will bind on the Criminal Court, whereas the decision arrived at by the Criminal Court will not bind on the Civil Court, as per the Judgment of the Hon'ble Apex Court in the case of M/s.Karamchand Ganga Pershad and another vs. Union of India and Others, reported in AIR 1971 SC 1244. The Apex Court held as under:-

"It is well established principle of law that the decisions of the civil courts are binding on the criminal courts. The converse is not true."

11. Thus it is clear that, the verdict of the Criminal Court will have no bearing in the departmental proceedings. Even assuming that acquittal is going to be upheld by the Supreme Court, as stated supra, as the criminal proceedings and departmental proceedings are independent of each other and the finding of the Criminal Court proceeding will not affect the departmental proceedings. Therefore, setting aside the order of dismissal on the ground of acquittal by the Criminal Court is contrary to aforesaid decision. The Criminal Court verdict can be looked into for the purpose of corroboration/contradiction, but certainly the finding thereon will not affect the Departmental Proceedings and may not be binding on the Departmental Proceedings.

12. In such view of the matter, this Writ Petition is allowed. The order of the second respondent dated 21.02.2013



made in I.D.No.300 of 2007 is set aside. No costs.
Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

arr

To

The Presiding Officer,
Labour Court, Cuddalore,
Cuddalore.

+1cc to Mr.G.Purushothaman, Advocate SR.No.30093

W.P.No.2843 of 2014

RGN(CO)
GMY(27/10/2021)