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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM

THE HONOURABLE MR. JUSTICE PARESH UPADHYAY
and
THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.No.2834 of 2021
and
C.M.P.No.18854 of 2021

The General Manager
Tamilnadu State Transport Corporation
(Villupuram) Ltd., Zonal Office,
Chennai Bangalore National Highways,
Ponnerikarai,
Kancheepuram.

..Appellant

Vs.

R.Chandrasekaran

..Respondent

Appeal filed under Clause 15 of the Letters Patent against
the order dated 05.10.2020 made in W.P.No.33741 of 2019.

PRAYER IN WP.NO.33741 OF 2019

Writ Petition filed under Article 226 of the Constitution of
India, Praying to issue a Writ of Certiorari calling for the
records relating to the order dated 29/09/2016 passed by the
Principal Labour, Chennai in I.D.No.230 of 2014

For Appellant	..	Mr.G.Saravana Kumar
For Respondent/caveator	..	Ms.D.Nagasaila for Ms.A.Dhanalakshmi

JUDGMENT
(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 05
October 2020 in W.P.No.33741 of 2019. This appeal is by the
original writ petitioner - State Road Transport Corporation.

2. In the petition, challenge was made to the award passed
by the Principal Labour Court, Chennai dated 29.09.2016 in
I.D.No.230 of 2014 be quashed and set aside.



3. This appeal arises under the following facts:

3.1 The respondent / workman was inflicted punishment of dismissal from service after departmental enquiry, which led to an industrial dispute. The Labour Court modified the said dismissal and inflicted withholding of two annual increments with cumulative effect. This was challenged by the management in writ petition.

3.2 Learned Single Judge partly allowed the writ petition. The operative part reads as under:

"19. In view of the aforesaid facts, this Court feel that the original punishment given by the Disciplinary Authority (i.e.,) dismissal from service against the respondent can be modified into compulsory retirement which would serve the purpose and therefore, accordingly, the impugned award is liable to be modified suitably. In the result, the following orders are passed:

(i) the impugned order dated 29.09.2016 in I.D.No.230 of 2014 is hereby modified to the following effect.

(ii) that the respondent/employee shall be inflicted with the punishment of compulsory retirement with effect from 15.05.2010, that is, the date on which the punishment of dismissal from service has been imposed against him. Consequently, the respondent/employee shall be entitled to get service benefits as applicable. Accordingly, the Transport Corporation shall calculate the service benefits payable to the respondent/employee, taking into account the modified punishment of compulsory retirement imposed against him with effect from 15.05.2010 and disburse the same within a period of three months from the date of receipt of a copy of this order."

3.3 It is the above direction, which is challenged in this appeal by the management. The workman is not in appeal so far, and therefore that question is not examined.

4. Learned advocate for the appellant / Management has submitted that considering the past conduct of the workman, interference by learned single Judge was not justified and therefore the order of learned single Judge be interfered with. It is noted that the learned advocate for the appellant has



taken this Court extensively through the misconducts committed by the respondent / workman on earlier occasion and the punishment imposed by the management. It is submitted that learned Single Judge ought to have interfered with the award of labour Court. It is submitted that this appeal be entertained.

5. Learned advocate for the respondent/ workman is present in the Court on caveat, however, we have not called upon learned advocate for the respondent.

6. Having heard learned advocate for the appellant and having considered the material on record this Court finds as under:

6.1 For the so-called misconduct of some illegality of Rs.124/-, economical death of the respondent / workman was ordered by the Management. He was working as conductor since more than 24 years.

6.2 The labour Court, while exercising its discretion arrived at the conclusion that the said punishment was unsustainable and the same was modified as withholding of two annual increments with cumulative effect.

6.3 Learned Single Judge while accepting the say of the appellant / management, continued the workman to be out of job, since dismissal is modified as compulsory retirement, which would entitle the respondent / workman to have his terminal benefits.

6.4 We do not find that the discretion exercised by learned Single Judge calls for any interference, at least in the appeal filed by the management. This appeal therefore needs to be dismissed.

7. For the above reason, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

8. While dismissing this appeal, we make it clear that non-interference in the order of learned single Judge in the appeal by the management is not to mean confirmation of the impugned order and in the event any challenge is made by the workman, it may be examined on its own merits. We note that, the time to



comply with the directions of learned Single Judge has passed long back. The amount payable to the workman shall be paid without any further delay.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

The Principal Labour Court,
Chennai.

Copy to

The General Manager
Tamilnadu State Transport Corporation
(Villupuram) Ltd., Zonal Office,
Chennai Bangalore National Highways,
Ponnerikarai,
Kancheepuram.

+1cc to Mr.G.Saravanakumar, Advocate, S.R.No.62731

+1cc to M/s.N.Beulah John Selvaraj, Advocate, S.R.No.62367

W.A.No.2834 of 2021

PL(CO)
KKV/13/12/2021