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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.09.2021

PRONOUNCED ON : 06.12.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.35744 of 2019
and
W.M.P.No.36650 of 2019
&
W.M.P.Nos.17071 to 17073 of 2021

The Management,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
rep. by its General Manager,
Cuddalore Region,
Cuddalore District-607 002.

... Petitioner

Vs.

S.Ramadoss

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records on the file of the Presiding Officer, Labour Court, Cuddalore in I.D.No.14 of 2016 dated 12.10.2017 and to quash the same.

For Petitioner : Mr.C.S.K.Sathish

For Respondent : Mr.R.Muralidharan

O R D E R

The present Writ Petition is heard through Video Conferencing on 03.09.2021.

2. The respondent herein, who was engaged as a Driver in the petitioner's Transport Corporation, was imputed with charges



of unauthorized absence. According to the petitioner-Management, the respondent had remained absent between 02.03.2012 to 18.08.2012 without any authorization. On enquiry, the charges were held to be proved and accordingly, the respondent-workman was dismissed from service on 16.12.2013. The Labour Court in its award dated 12.10.2017, passed in I.D.No.14 of 2016, had held that the punishment of dismissal was disproportionate to the charges and accordingly reduced the punishment to "stoppage of increment for a period of two years with cumulative effect", together with 50% of the backwages.

3. The learned Standing counsel for the Transport Corporation would submit that the Labour Court, having found the departmental action initiated by the petitioner-Management to be just and proper, ought not to have interfered with the punishment. I am not in agreement with such a submission.

4. In order to determine the proportionate of the punishment, it would also be pertinent to determine as to whether the charges of unauthorized absence was wilful or not? In the case of Krushnakant B. Parmar Vs. Union of India & Another reported in 2012 (2) SLJ 19, the Hon'ble Supreme Court had held that the question as to whether the unauthorized absence from duty would amount to failure of devotion to duty, cannot be decided without deciding the question as to whether such an absence was wilful or because of compelling circumstances. In the instant case, the reason assigned by the respondent-workman was that he was medically indisposed owing to diabetes and had accordingly tendered his apologies and undertaken to maintain good conduct henceforth. The Labour Court had taken into account the services rendered by the respondent-workman from 01.09.2005 onwards and by considering the apology tendered by the respondent-workman, had found that the punishment was disproportionate and accordingly reduced the same. I do not find any infirmity with such a finding.

5. The Hon'ble Supreme Court in the case of Charanjit Lamba Vs. Commanding Officer, Army Southern Command and Others reported in 2020 (11) SCC 314, had held that in cases where the punishment is so disproportionate to the gravity of the charges that no reasonable person placed in the position of the disciplinary authority could have imposed the punishment, the Writ Court would be justified in interfering with the same. In this background, the maximum punishment of dismissal from services, is deemed to be disproportionate to the charges and since the respondent-workman had put in service from 01.09.2005 onwards, no interference is required to the impugned award of the Labour Court passed in I.D.No.14 of 2016 dated 12.10.2017.

6. Accordingly, the Writ Petition stands dismissed.



Consequently, the connected Miscellaneous Petitions are closed.
There shall be no orders as to costs.

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Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Presiding Officer,
Labour Court, Cuddalore.

+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No.64134

W.P.No.35744 of 2019
and
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&
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GSM(CO)
SU(13/12/2021)