



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Writ Petition (MD)No.2282 of 2011

WEB COPY

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye-Pass Road, Collectorate Post,
Dindigul 624 004.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court Trichy,
Dindigul Camp.

2.The Secretary,
Tamil Nadu Arasu Pokkuvarathu Tholilalar Sangam,
(AITUC),
92, Mengils Road,
Dindigul -1.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records relating to the proceedings of the first respondent in I.D.No.25 of 2007, dated 30.06.2009 and quash the same.

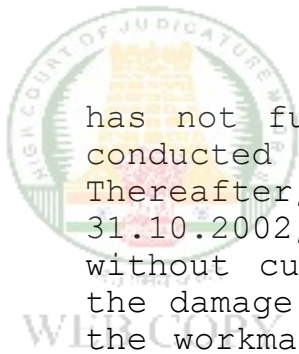
For Petitioner : Mr.S.C.Herold Singh

For R2 : Mr.S.Arunachalam

O R D E R

This writ petition has been filed challenging the proceedings of the first respondent in I.D.No.25 of 2007, dated 30.06.2009, and quash the same.

2. The case of the petitioner / Transport Corporation is that the second respondent is the Tamilnadu Arasu Pokkuvarathu Thozhilalar Sangam (AITUC) and S.Jesu Jeyaseelan was appointed as JTM on 01.07.1995 and he is the Member of the said Union and he was discharging his duty as an Assistant Tradesman in the Reconsidering Unit from 08.06.1997. While checking the engine, he has not checked the oil properly and due to his carelessness, the engine of the bus bearing No.TN57/N 0678 was damaged, which is an offence under Clause 16 (13) and 16 (20) of the Certified Standing Order. Therefore, charges were framed against him vide memo dated 30.10.2001. But, he



has not furnished his explanation. Hence, the Enquiry Officer has conducted an enquiry and filed a final report on 31.08.2002. Thereafter, a show cause notice was issued against him on 31.10.2002, proposing the punishment of one year increment cut without cumulative effect and to recover a sum of Rs.12.147/- for the damage of engine cost. On receipt of the said show cause notice, the workman has given his reply on 12.11.2002. After verifying the reply of the workman and his previous records, the petitioner Corporation has modified the punishment from one year to six months without cumulative effect. Thereafter, the second respondent Union has raised an Industrial Dispute before the Labour Court in I.D.No.25 of 2007 and the Labour Court has allowed the same on 30.06.2009 and set aside the order of punishment imposed by the petitioner Corporation. Challenging the same, the present writ petition has been filed by the Transport Corporation.

3. The learned counsel appearing for the petitioner would submit that though the Member of the second respondent Union viz., S.Jesu Jeyaseelan was appointed as JTM in the petitioner Corporation on 01.07.1995, subsequently, he was promoted as Assistant Tradesman in the Reconsidering Unit from 08.06.1997 and while checking the engine, he has not checked the oil properly. Therefore, the petitioner Corporation has imposed the punishment for six months and the said punishment is just and reasonable, whereas the Labour Court, by order dated 30.06.2009, set aside the same and hence, he prayed for allowing the writ petition.

4. Per contra, the learned counsel appearing for the second respondent Union would submit that the order of Labour Court is proper and perspective and after considering the entire materials adduced by the workman as well as the Transport Corporation, the Labour Court has passed the order, which cannot be interfered with under Article 226 of the Constitution of India.

5. Heard the learned counsel for the petitioner, learned counsel for the second respondent and perused the materials available on record.

6. Before this Court ventures into the merits of the contention raised on either side, it would be first necessary to bear in mind the scope and jurisdiction of this Court under Article 226 of the Constitution of India, while examining the correctness of the award of the Labour Court. The Hon'ble Supreme Court in a catena of decisions has held that normally a writ court should not interfere with the award of the Labour Court, unless the award is perverse. It has been further held that if the award is not irrational or perverse, the High Court should not interfere with the reasons in the award. Further, it has been held that this Court should not re-appreciate the evidence placed before the Labour Court and draw its own conclusions, merely because this Court is of



the opinion that a different conclusion could have been arrived at on the available evidence. Bearing this legal principle in mind, this Court proceeds to examine the correctness of the impugned award.

7. A perusal of the order of Labour Court, dated 30.06.2009, would reveal that the Member of the Union viz., S.Jesu Jeyaseelan is not responsible for the damage of the engine of Vedasandur Branch bus bearing No.TN57/N 0678 and one K.J.N. has tested the engine of the bus and he is responsible for the same. In order to prove the same, a domestic enquiry was conducted and the enquiry notes clearly reveals that one K.J.N. has tested the Job No.5438 and thereafter the name was scratched by blade and inserted the name of S.Jesu Jeyaseelan. Considering all these materials, the Labour Court has passed the order and this Court is not inclined to interfere with the order passed by the Labour Court. Accordingly, this Writ Petition is dismissed and the order passed by the Labour Court in I.D.No.25 of 2007, dated 30.06.2009 is confirmed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (P & A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Akv

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Presiding Officer,
Labour Court Trichy,
Dindgul Camp.

Writ Petition (MD)No.2282 of 2011

06.01.2021

SSS (CO)

NR (19/01/2020) 3P : 2C