



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

CORAM

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

W.P.(MD)No.5885 of 2011

and MP(MD)No.1 of 2011

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The Management
Tamil Nadu State Transport Corporation
(Madurai Division-V) Limited,
[Now known as Tamil Nadu State
Transport Corporation [Madurai Limited]
Virudhunagar.

... Petitioner

Vs

1.The Presiding Officer,
Labour Court,
District Court Building,
Madurai-20.

2.General Secretary,
State Transport Workers
Union [C.I.T.U]
6/662, Lakshmi Nagar,
Madurai Road,
Virudhunagar-626 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the first respondent in the proceedings in I.D.No.85 of 2005, dated 16.09.2009 and quash the same.

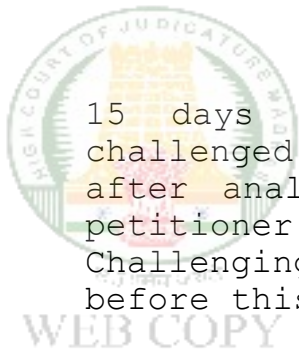
For Petitioner : Mr.Senthilkumariah

For R2 : Mr.S.Arunachalam

O R D E R

Challenging the Award passed by the first respondent, in I.D.No.85 of 2005, dated 16.09.2009, the Writ Petition has been filed.

2.The case of the petitioner Corporation is that two conductors who were employed in the petitioner Corporation were went on strike on 22.10.2002 and further, they have prevented the other employees from attending the duty for which, they were issued with a charge memo and after following the due procedures by appointing an Enquiry Officer and the Enquiry Officer drawn a proven minute. Based on the proven minute, the petitioner Corporation imposed the punishment of



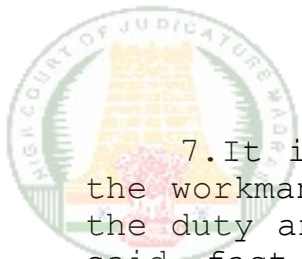
15 days suspension on 06.10.2003. The said punishment was challenged before the first respondent in I.D.No.85 of 2005 and after analysing the entire issue, the punishment awarded by the petitioner Corporation was set aside by the Labour Court. Challenging the same, the petitioner filed the present writ petition before this Court.

3.The learned counsel for the petitioner would submit that for the proven minute, the petitioner was imposed with a minor punishment, which cannot be interfered with unless there is procedural violation. He would further submit that on behalf of the petitioner Management, two witnesses were examined and two witnesses clearly deposed of the petitioner involvement of the strike and prevented the other persons from participating in the work. Hence, the order of Labour Court is perverse and accordingly, he prayed for allowing this petition.

4.The learned counsel for the second respondent would submit that the Labour Court, after framing issues and perused the entire records and after analysing the Management evidence, namely, M.W.1-member of the other union, who deposed against the worker union, not believed the version of M.W.1. He would further submit that M.W.2-Depot Manager is not an eye-witness and except the two witness, no other witnesses were examined to prove the guilt committed by the workmen. He would further submit that after analysing the entire materials, the Labour Court can only interfere with the issue.

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

6.Before this Court venture 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 decision 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 substitute 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. First, it has to be seen, whether the Employer Management was able to exactly establish as to guilt committed by Employee and whether there was evidence to show that the Employee concerned is solely responsible for the guilt and the same is affected the reputation of the Employer Management.



7.It is seen from the records that the main allegation against the workman is that he prevented the other employees from attending the duty and facilitates the strike and in order to prove the above said fact, the petitioner Management examined M.W.1 and M.W.2. M.W.1 is the workman, who is the member of rival union and in his evidence, he deposed that he made a complaint against the workman and other persons for participating the strike. However, in his evidence, he did not depose that as to whether the petitioner was available in the alleged occurrence place and further, the Depot Manager was examined as M.W.2. However, admittedly, the Depot Manager was not an eye-witness. Hence, both the evidences are not supported the case of the petitioner Management and in the absence of any record to show the involvement of the petitioner in the strike, this Court is not inclined to interfere with the order of the Labour Court.

8.For the reasons stated above, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Presiding Officer,
Labour Court,
District Court Building,
Madurai-20.

W.P. (MD) No.5885 of 2011

18.01.2021

(VR)

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