



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.02.2021

CORAM:

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

W.P. (MD)No.5518 of 2012

WEB COPY

- 1.S.Henry (died)
- 2.Anbu Henry
- 3.Manova Henry
- 4.Thanga Rajathi

P2 to P4 are substituted vide Court order
dated 17.02.2021 in W.M.P. (MD) .No.18264 of 2018
in W.P. (MD) .No.5518 of 2012. ... Petitioner

Vs.

- 1.The Managing Director,
Tamil Nadu Transport Corporation Limited,
Madurai Division 2,
Vannarapettai,
Tirunelveli.

- 2.The Presiding Officer,
Labour Court,
Tirunelveli.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified mandamus to call for the records pertaining to the award dated 22.11.2011 passed by the 2nd respondent, the Presiding Officer, Labour Court, Tirunelveli in I.D.No.104 of 1995 and to quash the same and to direct the 1st respondent to set aside the ex-parte enquiry hold by the 1st respondent on 29.01.1994 against the petitioner and consequently directing the 1st respondent corporation to give the back wages, pension and other monetary benefits to the petitioner.

For Petitioners	: Mr.M.Punitha Devakumar
For R1	: Mr.K.Sathyasingh
	Standing counsel

O R D E R

This writ petition has been filed challenging the award passed by the Labour Court, Tirunelveli in I.D.No.104 of 1995, dated 22.11.2011 and to quash the same and consequently, direct the first respondent Transport Corporation to set aside the ex-parte enquiry and to give back wages, pension and other monetary benefits to the petitioner.



2. The case of the petitioner is that he joined as a Driver in the respondent Transport Corporation in the year 1988. While the petitioner was working at Papanasam Branch, he was transferred from Papanasam to Tirunelveli Depot II, against the Approved Standing Orders of the respondent Corporation, the Industrial Employment (Standing Orders) Act, 1946 and the Rules framed therein. The petitioner has not accepted the transfer and questioned the same. Therefore, the respondent Transport Corporation issued a show cause notice, dated 17.11.1993, against the petitioner, on the ground that the petitioner had driven the bus rashly and negligently and he did not stop the bus in the bus stop. Further, he did not report duty from 13.10.1993 to 21.10.1993 and from 23.10.1993 onwards, he was absent without obtaining any leave. Subsequently, he was removed from service, on 06.04.1994. Challenging the said order of removal, the petitioner has initiated conciliation proceedings before the Labour Court, Tirunelveli and the Conciliation Officer has filed a failure report, on 23.12.1994. Thereafter, the petitioner has raised an industrial dispute in I.D.No.104 of 1995 before the Labour Court, Tirunelveli, for setting aside the order of dismissal passed against the petitioner. The Labour Court, after elaborate trial, passed the award in favour of the petitioner, on 22.12.2000. However, the first respondent has not accepted the award and filed a petition in W.P.No.14234 of 2001 before this Court, to quash the award passed by the Labour Court, Tirunelveli in I.D.No.104 of 1995. This Court, by order dated 07.04.2010, allowed the writ petition and set aside the award passed by the Labour Court and remanded the matter back to the Labour Court for fresh disposal. Thereafter, the Labour Court has dismissed the I.D.No.104 of 1995. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that a bare perusal of the charge itself shows vague and for the said vague charge, the punishment of dismissal from service is highly disproportionate. Initially, the Labour Court has passed an award in favour of the petitioner and subsequently, the Labour Court has modified the award, which is unsustainable one. Hence, he prayed for allowing of this writ petition.

4. The learned Standing counsel appearing for the first respondent would submit that admittedly, the show cause notice was issued in the year 1993, on the ground that the petitioner had driven the bus in a rash and negligent manner and he did not stop the bus in the bus stop. Further, he did not report duty from 13.10.1993 to 21.10.1993 and from 23.10.1993 onwards, he was absent without obtaining any leave. However, the petitioner has not filed any reply to the said show cause notice, he never participated in the enquiry proceedings and no medical records were produced for his unauthorised absence. Therefore, he prays for dismissal.



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

6. The facts in the present case are not in dispute. Admittedly, the show cause notice was issued on 17.11.1993, for the rash and negligent driving of the petitioner and his unauthorised absent. In order to substantiate his case, the petitioner has not produced any records before the Labour Court and he has not taken any steps to produce the medical records. However, the Management marked Exs.1 to 24 and established the guilt committed by the petitioner.

7. In view of the above, I do not find any error in the award passed by the Labour Court, Tirunelveli in I.D.No.104 of 1995, dated 22.11.2011. Hence, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

To

1.The Managing Director,
Tamil Nadu Transport Corporation Limited,
Madurai Division 2,
Vannarapettai, Tirunelveli.

2.The Presiding Officer,
Labour Court, Tirunelveli.

+1 CC to M/s.M.PUNITHA DHEVA KUMAR, Advocate (SR-7385[F] dated 25/02/2021)

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-7815[F] dated 01/03/2021

W.P. (MD)No.5518 of 2012

25.02.2021

SVN(CO)

TR(18.06.2021) 3P 5C