



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.02.2021

CORAM:

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

W.P. (MD)No.7522 of 2012

WEB COPY

M.Gurusamy

... Petitioner

versus

1. The Presiding Officer,
Labour Court,
Madurai.
2. The Management,
Tamilnadu State Transport Corporation
(Madurai) Ltd.,
Bye-Pass Road,
Madurai.
(Formerly known as Tamilnadu State
Transport Corporation
(Madurai Division-IV) Ltd., Dindigul)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records of the 1st respondent relating to the Award passed by the 1st respondent in I.D.No.23 of 2008 dated 31.12.2002, confirming the dismissal order passed by the 2nd respondent, vide order dated 14.07.2011 and quash the same and consequently direct the 2nd respondent to reinstate the petitioner into service with continuity of service and back wages and all attendant benefits.

For Petitioner : Mr.S.Govindan

For Respondents : Mr.J.Senthil Kumaraiah,
Standing Counsel for R2

ORDER

The writ petition has been filed seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the Award passed by the 1st respondent in I.D.No.23 of 2008 dated 31.12.2002, confirming the dismissal order passed by the 2nd respondent, vide order dated 14.07.2011 and quash the same and consequently, direct the 2nd respondent to reinstate the petitioner into service with continuity of service and back wages and all attendant benefits.

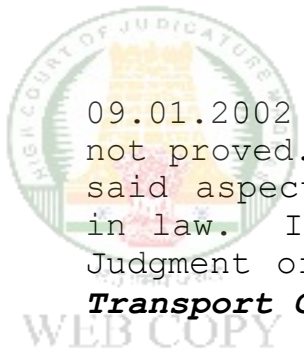


2. The petitioner joined the service of the 2nd respondent as Conductor on 01.04.1997 and his services were regularized and he was discharging his duties to the satisfaction of the 2nd respondent. During inspection, it was found that he had made certain alterations in the tickets and invoices and thereby, had misappropriated a sum of Rs.182/-. Based on the report, he was placed under suspension by order dated 01.02.2002. Subsequently, the suspension order was revoked by order dated 05.08.2002. Thereafter, the petitioner submitted his explanation denying the charges levelled against him. Being not satisfied with the explanation, an enquiry officer was appointed and enquiry was conducted. According to the petitioner, the enquiry officer, without following the principles of natural justice, conducted the enquiry in a biased manner. After conducting the enquiry, the enquiry officer submitted his report. Though the petitioner has given his explanation, the same was not considered by the Management and based on the enquiry report, he was dismissed from service by order dated 31.12.2002. The respondent Management filed an application before the first respondent for approval under Section 33(2)(b) of the Industrial Disputes Act and that application was allowed vide order dated 14.11.2003. Challenging the same, the petitioner raised an Industrial Dispute under Section 2(a)(2) of the Industrial Disputes Act, claiming reinstatement with back wages, continuity of service and other benefits, in I.D.No.23 of 2008.

3. Before the Labour Court, no witnesses were examined on both sides. However, on the side of the petitioner, 3 documents were marked as Exs.P1 to P3 and on the side of the respondent Management, 17 documents were marked as Exs.R1 to R17.

4. After analysing the materials placed before it, the Labour Court, vide order dated 14.07.2011, confirmed the order of dismissal. Challenging the same, the present writ petition has been filed.

5. The learned counsel appearing for the petitioner submitted that the petitioner has rendered unblemished service in the Transport Corporation from the year 1997 to 2002. On 09.01.2002, due to the crowd of passengers during the Ayyappa Festival season, the petitioner booked tickets for Rs.70/- in advance anticipating that more number of persons would travel from Kumili to Palani, but, unfortunately, 45 passengers already reserved seats through counter for their travel from Kumili to Palani and thereafter, no more passengers intended to travel to Palani and, therefore, the petitioner corrected the ticket fare of Rs.70/- as Rs.20/- for 11 passengers and issued the same to them and corrected the invoice. According to the petitioner, this mistake had happened only due to the lack of experience in the mofussil route bus service. Further, the enquiry officer had accepted that the petitioner had not made any corrections in the tickets relating to



09.01.2002 and hence, the charge of misappropriation of Rs.84/- was not proved. However, the Labour Court, without analysing the above said aspect, confirmed the dismissal order, which is unsustainable in law. In support of his contention, he has also relied upon the Judgment of Delhi High Court in the case of **Mahender Pal vs. Delhi Transport Corporation** reported in **2019 1 LLJ 399**.

6. Per contra, the learned Standing Counsel appearing for the second respondent submitted that the petitioner himself booked tickets before the arrival of passengers, anticipating that more passengers would travel from Kumili to Palani, which cannot be accepted, because, it is the duty of the conductor to issue tickets immediately after the receipt of money from the passenger. Therefore, the said action is not in consonance with the guidelines of the Transport Corporation. Further, the petitioner has no right to make any correction either in the tickets or invoice, which were marked as Exs.M2, M3 and M4. Further, the report was also marked as Ex.M1. Based on the materials placed, the Labour Court has arrived at a conclusion that the petitioner had misappropriated a sum of Rs.182/- and confirmed the order of dismissal passed by the second respondent. Therefore, the order of the Labour Court does not require any interference.

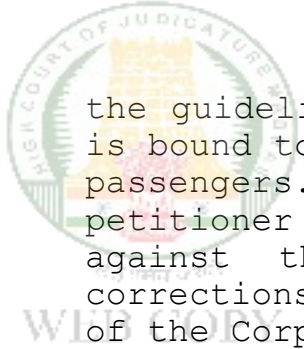
7. The learned counsel appearing for the petitioner submitted that though several charges were framed against the petitioner, some of the charges were dropped while filing counter which itself proved that respondent Transport Corporation had not intended to proceed against the petitioner. Therefore, the order of dismissal is highly disproportionate.

8. Heard the learned counsel appearing on either side and perused the materials available on record.

9. The facts of the case relating to the entry of the petitioner into service in the year 1997 as Conductor and his various places of employment are not in dispute.

10. The main bone of contention of the petitioner is that due to heavy passenger crowd on 09.01.2002, the petitioner had booked tickets for Rs.70/- in advance anticipating more number of persons, but only 45 passengers, who had already reserved seats through counter had travelled and no other passenger intended to go to Palani. Therefore, corrections were carried out by the petitioner in the 11 tickets and invoice and money was returned to the passengers.

11. Though the petitioner had placed the above arguments, the same does not meet the approval of this Court for the simple reason that it is incumbent on the part of the petitioner to follow



the guidelines of the Transport Corporation and that the petitioner is bound to issue tickets only after ascertaining the arrival of the passengers. However, without following the guidelines, the petitioner had booked the tickets in advance, which is grossly against the guidelines of the Corporation and carrying out corrections in the ticket and invoice is also against the guidelines of the Corporation.

12. A perusal of the records reveal that the invoices, viz., Exs.M-2 to M-4 were marked before the Labour Court. Further the material available in the typed set reveals that all the invoices were audited by the Central Invoice Audit Section and in the course of audit, it was found that alterations had been made in invoice Nos.36473, 36519 and 36565 pertaining to the dates 03.01.2002, 05.01.2002 and 09.01.2002 respectively, which clearly shows that it is not an isolated occurrence, but it has been happening continuously, which finds place in the report, Ex.M-1. Based on the materials placed before the Labour Court, and on proper appreciation, the Labour Court has come to the right conclusion that the petitioner had misappropriated a sum of Rs.182/- and confirmed the order of dismissal. On a perusal of the entire records as well as the order passed by the Labour Court, this Court is of the considered view that the Labour Court has appreciated all the materials in proper perspective and arrived at a just and reasonable finding to affirm the order of dismissal, which does not require any interference at the hands of this Court.

13. Insofar as the decision relied upon by the learned counsel for the petitioner, it is a case where the defaulting passengers boarded the bus shortly before checking team intervened. But, in the present case, the petitioner himself admitted his guilt. Therefore, the decision relied upon by the learned counsel for the petitioner is of no assistance to the case of the petitioner.

14. For the reasons aforesaid, this Court is of the view that no interference is warranted with the order impugned and, accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

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/ /2021

Sub Assistant Registrar(CS)



To

1. The Presiding Officer,
Labour Court,
Madurai.

W.P. (MD) No. 7522 of 2012
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