



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.5958 of 2013

U.Chelladurai

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Madurai.

2.The Management,
Tamil Nadu State Transport Corporation,
Madurai Limited,
Byepass Road,
Madurai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in I.D.No.50 of 1995, dated 04.07.2001 and quash the same as illegal, arbitrary and unconstitutional, unjust pursuant to the order dated 22.03.1991 vide in reference No.AA/THU/THOO.U/2649 of the 2nd respondent and consequently, directing the 2nd respondent to re-instate the petitioner with back wages from the date of dismissal.

For Petitioner	:	Mr.R.Sureshkumar
For R2	:	Mr.A.Jeyaram

ORDER

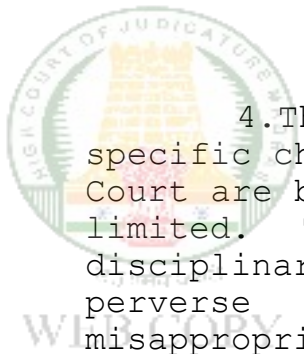
This writ petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the order passed by the Labour Court in I.D.No.50 of 1999 dated 04.07.2001 and to direct the second respondent to reinstate the petitioner with backwages from the date of dismissal.

2.The petitioner was working as a conductor in the second respondent, which is a State owned Transport Corporation. While the petitioner was on duty as conductor in passenger bus on 03.05.1989 in the route from Palamedu to Theppakulam, the checking Inspector during official checking found that the petitioner had reissued the tickets which were earlier sold by him to different passengers. The ticket examiner also found in the petitioner's cash bag that old tickets which were sold and used in the previous trips. Checking Inspector after gathering reissued tickets and materials obtained a statement from the petitioner. The petitioner refused to give a



statement or spot memo. Though the petitioner denied the charges on the ground that he never issued any old tickets to any passengers and other allegations on merits, it was found that the petitioner had misappropriated a sum of Rs.31/- by reissuing old tickets which were issued to the passengers on previous trips. The petitioner was suspended during enquiry. Though the suspension was revoked even before completion of disciplinary proceedings, the second respondent proceed with enquiry and the Enquiry Officer found that the charges against the petitioner were proved. Thereafter, the management issued second show cause notice on 03.09.1990 enclosing the findings of the Enquiry Officer and called upon the petitioner to explain why the petitioner should not be terminated from service. The petitioner gave a reply on 07.12.1990. The second respondent accepted the findings of the Enquiry Officer and imposed the punishment of dismissal from service with effect from 02.03.1991. Thereafter, the petitioner approached the Labour Court. The Labour Court also confirmed the findings of the Enquiry Officer and dismissed the petition raising industrial dispute. Challenging the order of the Labour Court confirming the order of dismissal, the above writ petition is filed.

3.The learned counsel appearing for the petitioner submitted that the Labour Court failed to note material irregularities in the conduct of the enquiry. The learned counsel also submitted that the other two Checking Inspectors, who were on the spot, were not examined and that no other passengers were examined to support the report of the Checking Inspector by name Ponnambalam. The petitioner's counsel submitted that the whole enquiry process was irregular and that the petitioner was not provided with adequate opportunity to defend the case. This Court is unable to accept the submissions of the learned counsel appearing for the petitioner. While the petitioner was on duty as conductor in a passenger bus, the Checking Inspector found that one of the passengers was travelling in the bus, had a ticket of Rs.0.70/- denomination. It was further found that the ticket which was issued by the petitioner had been originally issued to another passenger, who travelled in the same bus previously. The petitioner's contention does not explain how the used tickets were issued by the petitioner. This Court has no reason to reject the report of the Enquiry Officer or the award of the Labour Court, as this Court does not find any irregularity. There is no reason why the Checking Inspector should give a report against the interest of the petitioner in the course of work. When there is no iota of evidence to suggest malafide, this Court is not inclined to go behind the records, which are available and produced before the Labour Court. The learned counsel in his arguments submitted that no statement was obtained from the concerned passengers from whom the tickets were seized. He also raised a ground that the driver of the bus was not examined. It was therefore, suggested by the learned counsel that the findings are based on hearsay evidence.



4.The petitioner has not given proper explanation to the specific charges. The findings of the Enquiry Officer and the Labour Court are based on records. The scope of the judicial review is very limited. This Court cannot interfere with the findings of disciplinary authority or the Labour Court unless the findings are perverse or not supported by individuals. The amount of misappropriation may be meagre. However, the loss of confidence should be considered in a different perspective. The petitioner has misappropriated by reissuing the tickets which are already sold in previous trips. This type of misconduct should be considered serious. No motive or malafide is alleged against the Management. The punishment is proportionate to the charges proved.

5.The Labour Court has passed the order considering all the issues raised by the petitioner and the petitioner's counsel, has failed to demonstrate before this Court that the findings of the Labour Court are either perverse or irregular. This Court has no other option but to dismiss the Writ Petition. Accordingly, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

1.The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.R.SURESH KUMAR, Advocate (SR-26472[F] dated 17/08/2021)

W.P. (MD) .No.5958 of 2013
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