



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH  
AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI  
W.A. (MD)No.515 of 2021

and

C.M.P. (MD)No.2248 of 2021

The Management,  
Tamil Nadu State Transport Corporation  
(Kumbakonam) Limited,  
Karaikudi Division - 3,  
Karaikudi,  
Sivagangai District.

: Appellant

Vs.

1.The Presiding Officer,  
Labour Court,  
Madurai, Madurai District.

2.R.Kalayanasundaram

: Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of the Letters Patent as against the order dated 03.02.2020 made in W.P.(MD)No.2210 of 2011.

Prayer in WP(MD). 2210/ 2011 :

Petition filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI, calling for the records pertaining to the award dated 20-08-2009 in I.D.No.40 of 2006 on the file of the 1st Respondent and quash the same.

For Appellant : Mr.P.Balasubramanian

For Respondents : Labour Court - R.1

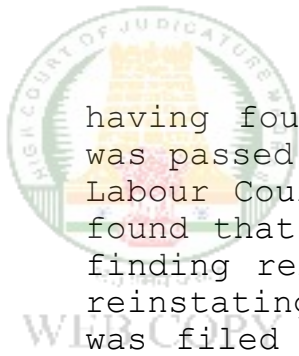
Mr.S.Arunachalam for R.2

### JUDGMENT

(Judgment of the Court was delivered by **M.M.SUNDRESH, J.**)

This appeal has been preferred as against the award of the Labour Court, which was confirmed by the learned Single Judge.

2. The second respondent / employee was fixed with the charges pertaining to misappropriation. A domestic enquiry was held and



having found that the charges stood proved, an order of dismissal was passed. A dispute was raised by the second respondent before the Labour Court and the Labour Court, after going through the records, found that the charges are not proved. Challenging the said factual finding rendered by the Labour Court, by which an order was passed reinstating the second respondent without backwages, a writ petition was filed by the appellant. The learned Single Judge, once again, gone into the issues and found that there is no perversity in the award of the Labour Court warranting interference. Aggrieved, the appellant has preferred the present appeal.

3. The learned Counsel appearing for the appellant made only one submission, ie., in the counter affidavit filed before the Labour Court, it has been stated that if the domestic enquiry is not found to be proper, an opportunity may be given to lead additional evidence. However, the said request has not been considered by the Labour Court.

4. We do not find any merit in this appeal. Mere averment in the counter affidavit would not suffice. It is not as if the Labour Court found that the domestic enquiry was lacking procedural compliance. However, it went into the merits of the case and found that the charges, as framed, are not proved. The learned Single Judge rightly found that there is no perversity with respect to the said finding rendered by the Labour Court. After all, in the departmental enquiry, it is for the Management to prove the charges. As the charges are not proved, upon considering the evidence adduced, the Labour Court rendered such a finding on fact.

5. The second respondent / employee has reached the age of superannuation. The Labour Court has also not awarded the backwages. Considering the above, we do not find any reason to interfere with the award of the Labour Court and therefore, the same is accordingly, confirmed. However, since the appeal has been preferred by the appellant as against the order of the learned Single Judge, we are inclined to grant another eight weeks time from the date of receipt of a copy of this judgment, to the appellant to comply with the award of the Labour Court.

6. In fine, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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To  
The Presiding Officer,  
Labour Court,  
Madurai, Madurai District.

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VR Section,  
Madurai Bench of Madras High Court,  
Madurai.  
(for returning the @ if any)

+1 CC to Mr.P.BALASUBRAMANIAN, Advocate ( SR-10044[F] dated  
10/03/2021 )

**W.A. (MD) No. 515 of 2021  
08.03.2021**

KM (15.03.2021) 3P 5C