



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.10.2021

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.12726 of 2014

and

M.P.(MD)No.1 of 2014

WEB COPY

1.The General Manager,
State Express Transport Corporation,
Tamil Nadu Limited, Chennai.

2.The Branch Manager,
State Express Transport Corporation,
Branch Office, Kanyakumari District.
vs.

... Petitioners

1.Edwin Sekar

2.The Presiding Officer,
Labour Court, Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records in I.D.No.6 of 12 dated 01.10.2012 and to quash the same and consequently to direct the second respondent to restore the case on file and give an opportunity to the petitioners to lead the evidence in the Labour Court, Tirunelvi to prove the charges leveled against the Conductor-cum-Driver, namely, Edwin Sekar.

For Petitioners : Mr.P.Prabhakaran

For R-1 : Mr.Gnanagurunathan

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned award in I.D.No.6 of 2012, dated 01.10.2012, passed by the Labour Court, Tirunelveli, and to direct the second respondent to restore the same and to give opportunity to the petitioners to lead evidence to prove the charges levelled against the first respondent.

2.Heard Mr.P.Prabhakaran, learned Counsel appearing for the petitioners and Mr.Gnanagurunathan, learned Counsel appearing for the first respondent.

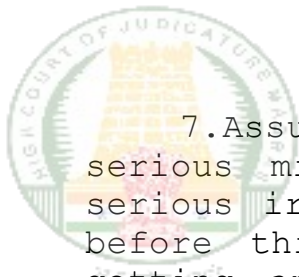


3.The petitioner is a State Express Transport Corporation fully owned by the State Government. The first respondent was engaged as a Driver-cum-Conductor. While the first respondent was in duty, there was an inspection by Checking Inspector, who found that the petitioner had not issued tickets to some of the luggages transported through the bus, in which he was on duty. A charge memo was issued to the petitioner. Based on the report of the Checking Inspector and a domestic enquiry was also conducted by appointing an Enquiry Officer. Based on the enquiry report, it is stated that the first respondent was terminated from service after giving a second opportunity to the first respondent before passing the order. It is admitted that the dispute was referred to before the Labour Court, Tirunelveli.

4.It is admitted that the Labour Court passed a provisional order holding that the domestic enquiry was concluded in utter disregard to the principles of natural justice and that therefore, further opportunity was given to the petitioner management to prove the charges. Except the files relating to the enquiry report, the petitioners did not produce any further documents or examined any witnesses to sustain the order of termination. Therefore, based on the provisional order, the Labour Court rendered a finding that the whole enquiry proceeding is vitiated and set aside the order of termination and reinstated the first respondent into service with back wages and continuity of service. Aggrieved by the same, the above Writ Petition is filed by the petitioners.

5.In the affidavit filed in support of the Writ Petition, the petitioners have pleaded that the charges against the first respondent are proved and that the Labour Court was not right in holding that the domestic enquiry is vitiated for violation of principles of natural justice.

6.The learned Counsel appearing for the petitioners submitted before this Court that the petitioner management is willing to lead evidence before the Labour Court and that an opportunity may be given to the petitioners to sustain the order of termination. The learned Counsel for the petitioners also pointed out that the first respondent had boarded a luggage unaccompanied by the owner, who had handed over a sum of Rs.150/- to the first respondent. The charge is that the first respondent did not issue any ticket for the luggage and that this serious misconduct was communicated by the Time Keeper to the Checking Inspector, who had inspected the vehicle and found that no ticket was issued for the luggage, that was transported through the bus even though the Conductor had received a sum of Rs.150/- towards luggage fee.



7.Assuming that the department proceedings was initiated for serious misconduct, the finding of the Labour Court regarding serious irregularities in the domestic enquiry is not challenged before this Court. Though the petitioners are interested in getting an opportunity to prove the misconduct, this Court is unable to find any sufficient reasons to give further opportunity to the petitioners. During the proceedings before the Labour Court, the petitioners had ample opportunity to lead evidence. The petitioners cannot expect this Court to pass an order mechanically in the absence of any circumstances that warrant further opportunity to the petitioners to lead evidence before the Labour Court.

8.In the facts and circumstances of the case and the points raised by the petitioners before this Court, this Court is unable to interfere with the award of Labour Court. Hence, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tmg/cmr

To

The Presiding Officer, Labour Court, Tirunelveli.

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-31700[F] dated 08/10/2021)

+1 CC to M/s.P.PRABHAKARAN, Advocate (SR-31807[F] dated 08/10/2021)

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