



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :07.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.17996 of 2014

and

M.P. (MD) .Nos.1 of 2014 and 1 of 2015

The Management
through its Branch Manager,
Tamil Nadu State Express Transport Corporation,
Madurai Branch,
Madurai
through its Managing Director.

... Petitioner

-vs-

1.The Presiding Officer,
Labour Court,
Madurai.

2.G.Eswaran (died)
3.E.Palaniammal
4.E.Phuvaneswari
5.E.Abimanyu
6.E.Vigneshwar
7.G.Parvathy

R3 to R7 are impleaded vide Court Order
dated 17.09.2021 in W.M.P.(MD).No.482 of 2021
in W.P.(MD).No.17996 of 2014.

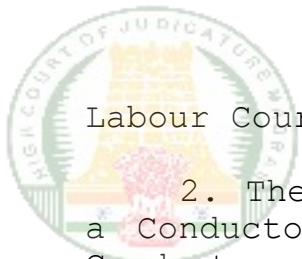
... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the order dated 27.02.2014, passed by the first respondent in I.D.No.11 of 2013, on the file of the Labour Court, Madurai and quash the same.

For Petitioner: Mr.K.Sudalaiyandi
For R3 to R7 : Mr.K.Esakki
R1 : Court

O R D E R

This writ petition is filed by the Management viz., the Tamil Nadu State Express Transport Corporation against the award of the



Labour Court, Madurai in I.D.No.11 of 2013.

2. The second respondent in the writ petition was appointed as a Conductor on 17.11.1997 and he was promoted as a Senior Grade Conductor and later Selection Grade Conductor. When the second respondent was working as a Conductor, a charge memo was issued to the second respondent on 03.10.2008, on the ground that he absented himself from duty for more than ten days from 09.07.2008, without any intimation to the petitioner. Because the second respondent did not appear before the Enquiry Officer, the Enquiry Officer submitted a report holding that the charges against the second respondent was proved. Based on the enquiry report, a show cause notice was issued to the second respondent on 25.03.2010. Thereafter, based on the enquiry report, the petitioner dismissed the second respondent from service, by the impugned order, dated 03.09.2010. It was the order of termination that was challenged by the second respondent before the Labour Court.

3. In the affidavit, the findings of the Labour Court regarding the irregularities in the ex-parte enquiry proceedings are not seriously disputed. The second respondent has given a valid explanation for his absence that his daughter sustained fracture in her leg in a major accident and that he had also developed chest pain in the course of treatment. Though an explanation was offered by the second respondent, the Enquiry Officer did not consider any of the reasons for the second respondent's absence. If the statement of the second respondent, explaining the reasons for his absence are true, the charges against the second respondent cannot be taken as wilful. The Labour Court specifically observed that the petitioner did not doubt the reasons for the absence of second respondent. The enquiry officer did not record any evidence and no documentary evidence was adduced by the Management. When it is contended by the second respondent that he applied for medical leave, the Labour Court found that there was no one examined to contradict.

4. In the present case, despite the Labour Court pointed out several irregularities in the findings of the Enquiry Officer, the petitioner Management has not chosen to produce the enquiry report before this Court, which was the basis for the punishment imposed by the petitioner. Though the petitioner has raised several grounds, the counsel is unable to satisfy this Court as to how the findings of the Labour Court are perverse. This Court does not find any valid reason to interfere with the award of the Labour Court impugned in the writ petition. The Labour Court after consider various aspects while setting aside the dismissal order, directed to reinstate the petitioner with continuity of service but without back wages.

5. In the said circumstances, this Court is of the view that the Labour Court award is perfectly in order and no substantial grounds are made out to render the findings of Labour Court either as



irregular or perverse. Accordingly, the Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

6. It is brought to the notice of this Court that the second respondent in the writ petition died during the pendency of the writ petition. Hence, the wife and children of the second respondent have been impleaded as the legal representatives of the deceased, by substitution. Consequent to the award of Labour Court, the petitioner is liable to pay the monetary benefits to the legal heirs of the deceased employee. Therefore, the petitioner is directed to settle the terminal benefits payable to the employee to the respondents 3 to 7, within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

akv

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

The Presiding Officer,
Labour Court,
Madurai.

+1 CC to M/s.K.ESAKIA, Advocate (SR-31780[F] dated 08/10/2021)

+1 CC to M/s.K.SUDALAIYANDI, Advocate (SR-32027[F] dated 20/10/2021)

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_RD/PM(15.11.2021) 3P 4C