



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 14.12.2021
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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

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W.P(MD)No.418 of 2014
and
W.P.(MD)No.17856 of 2016

W.P(MD)No.418 of 2014

The Managing Director,
Tamil Nadu State Transport Corporation
(Kumbakonam Division IV)Limited,
Pudukkottai.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirapalli.

2.R.Ravinathan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent herein dated 07.08.2012 in ID No.1 of 2002, quash the same.

For Petitioner	:	Mr. D.Sivaraman
For R1	:	Labour Court
For R2	:	Mr.H.Ilango

W.P(MD)No.17856 of 2016

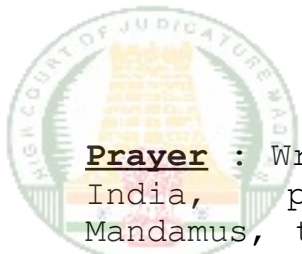
R.Ravinathan

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Tiruchirapalli.

2.The Managing Director,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division IV) Limited, Pudukkottai. ... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein in I.D.No.1 of 2002 dated 07.08.2012 in so far as denying 50% of back wages quash the same and to direct the second respondent to pay the entire back wages and all other consequential benefits.

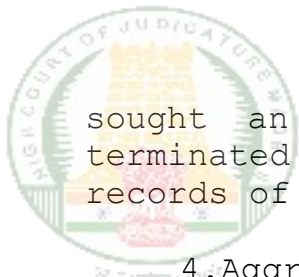
For Petitioner : Mr. H.Ilango
For R1 : Labour Court
For R2 : Mr.D.Sivaraman

COMMON ORDER

The writ petitioner namely R. Ravinathan has filed writ petition in W.P.(MD)No.17856 of 2016, challenging the award passed in I.D.No.1 of 2002 on the file of the Labour Court, Trichirappalli. The Tamil Nadu State Transport Corporation, has filed Writ Petition in W.P.(MD) No.148 of 2014, challenging the same award. The Labour Court has granted an award, setting aside the dismissal order, directed the respondents to reinstate the petitioner into service with continuity of service and 50 percent of back wages.

2. Heard the learned Standing Counsel for the petitioner and the learned Counsel for the respondent.

3.The facts of the case are that the petitioner was working as a Conductor in the Tamil Nadu State Transport Corporation, (Kumbakonam Division IV) Limited, Pudukkottai, from 01.04.1983 onwards. On 04.09.2000, when the petitioner was working in TN 45/0935, taking a trip from Thiruvadanai to Rameswaram on 05.09.2000 at about 3.00 am, near Thiruvadanai, the Checking Inspector boarded the bus. On inspection one passenger was not having valid ticket. A memo was issued to the petitioner alleging that the petitioner has collected fair of Rs.21.50/- from a passenger but the petitioner has not issued ticket. The petitioner was suspended on 14.09.2000 and a charge memo dated 15.09.2000 was issued. The petitioner submitted explanation on 19.09.2000, stating that he had examined number of passengers boarded the bus and found that the total number of passengers are tallying with the issuance of ticket. He further submitted that near the speed breaker, one passenger boarded the bus without the knowledge of the petitioner in Thiruvadanai and the said passenger was found to have consumed liquor. Not accepting the explanation, the respondents appointed an enquiry officer and the charges were held to be proved. The respondents issued second show cause notice dated 13.02.2001 and



sought an explanation. Then on 21.03.2001 the petitioner was terminated from service after taking into account of the past service records of the petitioner.

4. Aggrieved over same, the petitioner has preferred an Industrial Dispute in I.D.No.1 of 2002. The delinquent is claiming full back wages and has filed the W.P. 17856 of 2016. The respondents have aggrieved since the Labour Court has set aside the termination order and directed the respondents to reinstate the petitioner with continuity of service with 50% back wages. The Management has issued the dismissal order dated 21.03.2001 where the previous delinquencies have been listed, wherein 18 delinquencies have been alleged against the petitioner. In some of the cases, the punishment of stoppage of increments without cumulative effect and stoppage of increments with cumulative effect and other punishments have imposed.

5. As far as the delinquency numbers 5,6,14 and 16 narrated in the impugned dismissal order are concerned, the delinquency alleged was misappropriation and the impugned charge in the present writ petition is also one for misappropriation. Therefore, at least five charges of misappropriation were levelled against the delinquent. The Labour Court accepted the version of the delinquent and has granted relief. The Labour Court has not taken into account that for proving the misappropriation, the cash bag need not be verified, as held in several cases. Since it is not the duty assigned to the Checking Inspector to check the value of the money available in the cash bag of the conductor, but it is the duty to check the tickets. Even if the delinquent plea is accepted the conductor would have kept the excess amount in his pocket and not in the bag. Therefore it is unnecessary to check the cash bag, since it is not going to prove the alleged delinquency. In U.P SRTC VS Suresh Chand Sharma reported in (2010) 6 Supreme Court Cases 555 has been held cash bag need not be counted or checked in order to prove the misappropriation by the Conductor. Even though the misappropriation amount is petty, the mens rea to misappropriate the public money is the criteria. In the present case the petitioner was already charged with misappropriation for four times and this is fifth time.

6. Therefore, this Court is of the view that the Labour Court award is not in accordance with the evidence available in this case. Hence this Court is setting aside the award in I.D.No.1 of 2002 dated 07.08.2012 passed by the Labour Court, Tiruchirappalli. The petitioner is not entitled to reinstatement, continuity of service and backwages. The petitioner has put in 23 years of service and therefore this Court is directing the management to pay six months salary to the petitioner.

7. As far as the Writ Petition in W.P.(MD)No.17856 of 2016 is concerned, it is dismissed. As far as W.P.(MD)No.418 of 2014 is



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concerned, it is allowed. The management is directed to pay six months salary to the petitioner / employee. No costs.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar(CS)

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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, Tiruchirapalli.

2.The Managing Director, Tamil Nadu State Transport Corporation
(Kumbakonam Division IV)Limited, Pudukkottai.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-38822[F] dated 15/12/2021)

**W.P (MD) No.418 of 2014
and**

**W.P. (MD) No.17856 of 2016
14.12.2021**

SK (CO)

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