



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15426 of 2013

T.Krishnasamy

... Petitioner

Vs.

1.The Presiding Officer,
II Additional Labour Court,
Chennai - 600 104.

2.The Management of
State Express Transport Corporation
(Tamil Nadu) Ltd.,
Pallavan Salai, Chennai - 600 002.

... Respondents

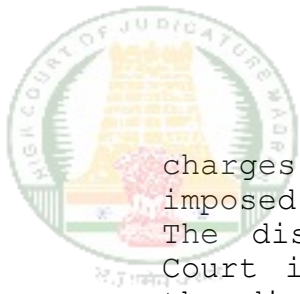
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Award dated 03.08.2010 passed in I.D.No.337 of 2006, quash the same and consequently, direct 2nd respondent to reinstate the petitioner in service, with continuity of service and with back wages and other attendant benefits.

For Petitioner : Mr.S.T.Varadarajulu

For Respondents: R.1 - Court
Mr.Kathiresan [for R.2]

ORDER

The petitioner herein, while serving as a Conductor in the second respondent/Corporation, was charged of having been unauthorisedly absent from 10.08.1999 onwards. In consideration of the medical certificate filed by him and while the regularization of his absence period was under consideration, he was permitted to join duty on 30.11.1999. Thereafter, he again remained absent unauthorisedly from 29.02.2000. On 18.03.2000, a charge memo was leveled against him for the unauthorised absence from 10.08.1999 to 30.11.1999. Though summons were received by the petitioner, he had failed to participate in the domestic inquiry and consequently, he was set exparte and the



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charges were held to be proved. The Disciplinary Authority had imposed a punishment of dismissal from service on 01.03.2001. The dismissal order came to be challenged before the Labour Court in I.D.No.337 of 2006 and by an Award dated 03.08.2010, the dismissal order was upheld. This Award is under challenge in the present Writ Petition.

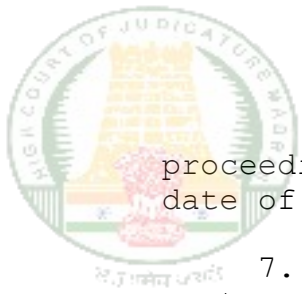
2. A perusal of the impugned Award reveals that the Labour Court after extracting these facts of the case on the submissions made by the either side, had simply rendered a finding that the inquiry was conducted in a fair and proper manner and that since the petitioner was involved in seven previous incidents of unauthorised absence and was also punished accordingly, had rejected the claim made by the petitioner. Apart from such finding, there was no other discussion on the evidence let in before the Labour Court.

3. The learned counsel for the petitioner submitted that he had given his explanation along with his medical certificate to the Management for the absence, which was not considered by the Management. Though he had let in oral evidence, the Labour Court had not discussed the same.

4. The Award of the Labour Court, though runs to 12 pages, had not rendered any specific finding on the evidence, both oral and documentary. Furthermore, the proportionateness of the punishment has also not been discussed. The way in which the Award has been passed, is in violation of the procedure contemplated under Section 11A of the Industrial Disputes Act, 1947 (hereinafter called as 'the Act'), which provides that the Labour Court should come to a subjective satisfaction that the order of dismissal was justified, if not, could set aside the order of dismissal and give such other relief to the workman, including the Award of any lesser punishment.

5. The proportionateness of the punishment vis-a-vis charges also requires to be gone into. Apparently, all these requirements of Section 11A of the Act, is not found in the impugned Award. In this background, this Court is of the view that the matter be remanded back to the Labour Court for fresh consideration, from the stage after completion of the trial.

6. Accordingly, the impugned Award dated 03.08.2010 passed in I.D.No.337 of 2006, is quashed and the matter is remanded back to the II Additional Labour Court, Chennai. The Labour Court shall take up the Industrial Dispute on file and commence the proceedings from the stage after completion of the trial, extending due opportunities to both the sides, pass speaking Award in accordance with Section 11A of the Industrial Disputes Act, 1947. The Labour Court shall endeavour to complete such



proceedings atleast within a period of six (6) months from the date of receipt of a copy of this order.

7. The Writ Petition stands disposed of, accordingly. No costs.

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Sd/-

Assistant Registrar (CS-IX)

//True copy//

Sub Assistant Registrar

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To

1.The Presiding Officer,
II Additional Labour Court,
Chennai - 600 104.

2.The Management of
State Express Transport Corporation
(Tamil Nadu) Ltd.,
Pallavan Salai, Chennai - 600 002.

+1cc to Mr.S.T.Varadarajulu, Advocate SR.No.24662

W.P.No.15426 of 2013

SKM(CO)
GMY (29/04/2022)