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W.P.No.17359 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2022

CORAM:

THE HON'BLE MR.JUSTICE K. KUMARESH BABU

W.P.No.17359 of 2005
and W.P.M.P.No.18873 of 2005
and W.V.M.P.No.437 of 2007

The Management of
Metropolitan Transport Corporation Limited,
Represented by its
Managing Director,
Pallavan House,
Chennai – 600 002.

... Petitioner

Vs

1.The Presiding Officer,
Principal Labour Court,
Chennai.

2.J.Balasundaram

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India
praying for a Writ of Certiorari to call for records of the 1st respondent in
I.D.No.316 of 1994, dated 09.09.2004 and quash the same.

For Petitioner : Mr.Gowthamaraj

For Respondents : R1 – Court
: Mr.S.Ravi for R2

ORDER

The above Writ Petition has been filed by the Management of



Metropolitan Transport Corporation, challenging the Award made in I.D.No.316 of 1994 dated 09.09.2004, wherein the Industrial Tribunal had granted a relief of reinstatement with continuity of services but without backwages.

2.Heard Mr.Gowthamaraj, learned counsel appearing for the petitioner and Mr.S.Ravi, learned counsel appearing for the 2nd respondent and perused the materials available on record before this Court.

3.The case of the petitioner is that the 2nd respondent was working as a conductor. On 14.11.1992, a checking Squad made a surprise inspection and found that he had issued tickets which was already been issued and that there was an excess of Rs.1.35 in the cash bag. He was placed under suspension and a charge memo was issued. As his reply was not satisfactory, an enquiry was directed to be conducted. An enquiry report was submitted holding that all the charges were proved. Hence, a show cause notice was issued to the 2nd respondent calling for his further explanation, which was also not satisfactory. Hence, taking into account the past record of his services, the 2nd respondent was removed from services. Even though, the Tribunal had not interfered with any of the findings of the Enquiry Officer and that it had held that the 2nd respondent had not adduced any satisfactory



and acceptable evidence and that the case of the petitioner has to be accepted and relied upon. But on the other hand, went about stating that it was the fault of the petitioner in not taking diligent steps to dispose of the Industrial Dispute and therefore, the 2nd respondent had suffered an economic death and for that reason, the Tribunal has held that such non-employment itself is a severe punishment and therefore, without any reasons assigned, as to why the order of dismissal is bad, had directed reinstatement with continuity of services however, without backwages.

4.He would contend that no reasons assigned by the Tribunal, hence the same is wholly perverse. It is not the findings of the Tribunal that the petitioner had protracted the proceedings. When that being so, the Tribunal holding that the petitioner was liable for the delay is wholly uncalled for and therefore, sought interference with the order of the Tribunal.

5.Countering his arguments, the learned counsel appearing for the 2nd respondent would submit that the 2nd respondent had already superannuated and the order of the Tribunal has not been implemented. Further he would contend that the Tribunal had not granted any backwages to him. According to him, the Tribunal was right in holding the non-employment of the 2nd respondent, itself for a long period is a sufficient punishment. As the 2nd



respondent has already superannuated, he prayed that this Court to not to interfere with the order of reinstatement as he would be entitled to monetary benefits.

6.I have heard the rival submissions made by the learned counsel appearing on either side.

7.It is true that the Tribunal had not set aside the order of dismissal passed by the petitioner. In fact, the Tribunal has given a finding that the 2nd respondent had not produced any satisfactory and acceptable evidence to disprove the charges and has held that the evidence adduced by the Management would have to be accepted and relied upon. When that being so, the order of the Tribunal, directing reinstatement on the ground that the petitioner was the cause for the delay in disposing of the Industrial Dispute is wholly imaginary and without any supporting reasons, as there was no finding that it was the petitioner who had caused the delay in disposing of the Industrial Dispute.

8.However the order of dismissal inflicted by the petitioner on the 2nd respondent, in the considered view of this Court is very harsh. Even though, in the affidavit, it has been pleaded that the order of dismissal has been passed taking into consideration his previous conduct, there was no



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documents produced before the Tribunal by the petitioner to sustain the same. In view of the same, I am of the view that the order of dismissal is disproportionate to the charges framed against the 2nd respondent. In view of the said finding, I hold that the order of dismissal is liable to be set aside and the 2nd respondent should be reinstated by the petitioner. As the 2nd respondent had already superannuated, there is no question of him getting any continuity of services. I am also of the view that the 2nd respondent would not be entitled to any backwages as held by the Industrial Tribunal which remains unchallenged by the 2nd respondent.

9.Hence, in view of the same, the 2nd respondent would be entitled to the terminal benefits for the services actually rendered by him. Accordingly, the Writ Petition is disposed of in terms of the above observations. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.09.2022

Index: Yes/no
Speaking/non-speaking
gba

To

The Presiding Officer,
Principal Labour Court,
Chennai.



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K. KUMARESH BABU, J.

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