



W.A. No.545 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

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THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.A. No.545 of 2022

Ravichandran ... Appellant

Vs

1.The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Cuddalore Region,
No.2, Imperial Road,
Cuddalore 2

2.The Presiding Officer,
Labour Court,
Cuddalore ... Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 08.11.2019 in WP No.30063 of 2014.

For the Appellant :: Mr.R.Muralidharan

For the Respondents :: Mr.M.Aswin,
Standing counsel,
for the first respondent

JUDGMENT



W.A. No.545 of 2022

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(Made by the Hon'ble Acting Chief Justice)

The present writ appeal has been filed against the order dated 08.11.2019 in WP No.30063 of 2014 wherein the learned Single Judge has come to the conclusion that the Labour Court has gone beyond the scope of inherent power vested on it under Section 11-A of the Industrial Disputes Act, 1947, and set aside the punishment of dismissal imposed on the appellant for his unauthorised absence for a long period from 13.06.2008 to 12.04.2010.

2. The facts leading to the filing of this writ appeal are as follows:

(a) The appellant was employed as a driver in the first respondent Corporation. While so, he was unauthorisedly absent from duty between the period 13.06.2008 and 12.04.2010. The first respondent corporation initiated disciplinary proceedings against the appellant. Since the explanation offered by the appellant was not satisfactory, domestic inquiry was conducted. The Inquiry officer conducted inquiry by affording due



W.A. No.545 of 2022

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opportunities to the appellant. After inquiry, the charges levelled against the appellant were found proved. Thereafter, second show-cause notice was issued to the appellant. After receipt of his explanation, the management passed the order of dismissal on 12.04.2010. Challenging the order of his dismissal, the appellant raised an industrial dispute before the Labour Court, Cuddalore, in ID No32 of 2013. The Labour Court ultimately came to the conclusion that the appellant shall be reinstated into service, however with punishment of stoppage of three increments with cumulative effect. The Corporation was directed to reinstate the appellant with continuity of service and to pay 50% of the back wages from the date of dismissal to the date of reinstatement.

(b) Challenging the said award, the Tamil Nadu State Transport Corporation (Villupuram) Ltd. approached this Court by way of writ petition. The learned Single Judge allowed the writ petition and set aside the award of the Labour Court. Questioning the correctness of the



W.A. No.545 of 2022

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order passed by the learned Single Judge, the present writ appeal has been filed by the appellant/workman.

3. At the outset, the learned counsel for the appellant submitted that the learned Single Judge has erroneously recorded in the impugned order that there was no appearance for the appellant, whereas, according to the learned counsel, he was very much present when the writ petition was taken up for hearing. However, it is seen that no where in the grounds of appeal it is specifically mentioned that the learned counsel was present when the matter was taken up.

4. The appellant was admittedly working as a driver in the Tamil Nadu State Transport Corporation. He remained unauthorisedly absent for the period between 13.06.2008 and 12.04.2010. Therefore, departmental proceedings were initiated against him. The Inquiry officer, after giving him reasonable opportunity, came to the conclusion that the appellant was guilty of the charges levelled against him. The appellant was issued with second show-cause notice. Since his explanation was not satisfactory, he was dismissed from service. Aggrieved thereby, the appellant raised an industrial



W.A. No.545 of 2022

WEB COPY dispute.

5. The Labour Court, Cuddalore, came to the conclusion that the appellant has absented himself from duty only for a few months and therefore, stoppage of three increments with cumulative effect would be more appropriate punishment. The Labour Court also came to the conclusion that back wages can also be reduced to 50%. The appellant requested the Labour Court to direct the management to allot alternative employment to him under Section 47 of the Persons with Disabilities (Equal Opportunities) Protection of Rights and Full Participation Act, which says that if any workman has suffered a disability, he shall not be dismissed from service and on the other hand, he should be given some other lighter employment and if no such job is available, the management has to create a supernumerary one. The Labour Court held that the appellant is entitled to the benefit of the above Act. Aggrieved by the award passed by the Labour Court, the Tamil Nadu State Transport Corporation (Villupuram) Ltd., filed writ petition in WP No.30063 of 2014. Learned single Judge taking note of the fact that the appellant remained unauthorisedly absent from 13.06.2008 to 12.04.2010, found fault with



W.A. No.545 of 2022

the approach adopted by the Labour Court, Cuddalore, and restored the order of dismissal, against which, the present appeal has been filed.

6. We are of the considered opinion that the appellant was rightly dismissed from service by the Corporation. The appellant has absented himself from duty without any rhyme or reason from 13.06.2008 to 12.04.2010. Therefore, he was subjected to disciplinary proceedings. When the award passed by the Labour Court, Cuddalore, has not mentioned anything about the unfair approach adopted by the Inquiry officer, the inquiry was found to be fair and proper. Therefore, once the Labour Court has come to the conclusion that the inquiry held by the Inquiry officer was fair and proper, considering the fact that the appellant remained unauthorisedly absent without any reason whatsoever, we are not inclined to interfere with the impugned punishment of dismissal from service. Therefore, the finding and conclusion reached by the learned Single Judge in our opinion is unassailable. Therefore, the appeal fails and the same is dismissed. There will be no order as to costs. Consequently, C.M.P.No.4008 of 2022 is closed.



W.A. No.545 of 2022

WEB COPY

(T.R., ACJ.) (D.K.K., J.)
01.11.2022

Index: Yes/No
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To

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WEB COPY



W.A. No.545 of 2022

T.RAJA, ACJ,
and
D.KRISHNAKUMAR, J.

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W.A. No.545 of 2022

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