

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

Writ Petition No.17887 of 2014
and
M.P.No.1 of 2014

The Management
Tamil Nadu State Transport Corporation Ltd.,
Salamedu, Vazhuthareddy,
Villupuram, Villupuram District,
Rep. by its General Manager.

...Petitioner

-Vs-

1. M.Amaradevan

2. The Presiding Officer,
Labour Court,
Cuddalore.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the 2nd respondent made in I.D.No.74 of 2010 dated 02.09.2013 and to quash the same as illegal.

For Petitioner : Mrs.G.Saravana Kumar

For Respondents : Mr.V.Ajay Khose (for R1)
R2- Labour Court.

O R D E R

The writ petition is filed questioning the validity of the award passed by the Labour Court in I.D.No.74/2010 dated 02.09.2013.

2. The writ petitioner Management filed a writ petition challenging the award mainly on the ground that the 1st respondent workman remained absent voluntarily and the said factum was not considered by the Labour Court. The wilful absence of the workman was proved from the fact that there was a

notice and reply sent by the 1st respondent which tells the fact of absence and the same was without any permission or authorisation from the Management. Therefore, the Labour Court has not considered these factors and thus, the impugned award is liable to be set aside.

3. The learned counsel appearing on behalf of the 1st respondent workman opposed the said contentions by stating that the Management miserably failed to establish the wilful absence of the workman. Per contra, the workman is able to prove that he was suffering from Jaundice, during the relevant point of time and there was no such willful absence from attending the duty. When the Management could not able to establish that there was willful absence on the part of the workman, the punishment of dismissal from service was treated as excessive and not in proportionate with the gravity of the allegations. On the ground of proportionality, the Labour Court modified the punishment of dismissal from service to stoppage of two increments with cumulative effect and further, the workman was not granted with 100% backwages. The backwages was restricted to 25%. Thus, the punishment of dismissal was modified on the ground of proportionality of punishment imposed by the Management.

4. This being the factum, the writ petitioner has not established any other acceptable ground for the purpose of interfering with the award passed by the Labour Court, as the Labour Court has taken a balanced view considering the lapses committed on the part of the workman and also the major penalty of dismissal from service imposed by the management. No doubt, the workman remained absent during the relevant point of time. However, the management could not able to establish that it was a willful absence and taking note of those factors, the Labour Court modified the punishment and imposed minor penalty by depriving the workman from getting 75% of the backwages. During the pendency of the writ petition, the 1st respondent workman was reinstated into service and at present he is working.

5. Therefore, in the above said circumstances, this Court is not inclined to interfere with the award passed by the Labour Court. Accordingly, the award dated 02.09.2013 passed in ID No.74 of 2010 stands confirmed and the writ petition stands dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.40442

W.P.No.17887 of 2014

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NSK/15/07/2022