



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

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W.A(MD)No.2162 of 2021

and

C.M.P (MD) No.10536 of 2021

The Management,
Tamil Nadu State Transport Corporation
Kumbakonam Unit II,
Rep. By its General Manager,
7, Collector's Office Road,
Tiruchirappalli.

(cause title accepted vide
order dated 26.11.2021 made in
CMP (MD) No. 9942/2021

in WA(MD) Sr.No.21409/21 by PSNJ & PVJ)

.. Appellant/Writ Petitioner
Vs

1.The Presiding Officer,
Labour Court,
Tiruchirappalli.

.. Respondent No.1/Respondent No.1

2.I.Wilfred Dhinagar

.. Respondent No.2/Respondent No.2

Writ Appeal filed under Clause 15 of the Letters Patent against
the order dated 27.01.2021 made in W.P.(MD) No. 13889 of 2015.

Prayer in WP(MD) . 13889/ 2015 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorari calling for the records relates to the order passed by
the 1st respondent herein dated 26.2.14 in I.D.No. 142 of 2006 and
quash the same.

For Appellant : Mr.D.Sivaraman

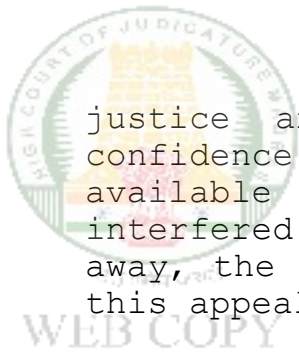
For Respondents : Mr.S.K.Mani for R2

J U D G M E N T

[Delivered by PARESH UPADHYAY, J.]

Challenge in this appeal is made to the order dated 27 January
2021 recorded on W.P(MD) No.13889 of 2015. This appeal is by the
petitioner management.

2. Learned advocate for the appellant has submitted that,
dismissal of writ petition is erroneous, since the finding is to the
effect that the enquiry was in violation of principles of natural



justice and further that the document M4 was not inspiring confidence of the Court, which is inconsistent with the documents available on record and therefore the said findings need to be interfered with. It is submitted that, if those findings are taken away, the order under challenge remains unsustainable and therefore this appeal be entertained.

3. On the other hand, learned advocate for the respondent workman has submitted that the Writ Court has, on the basis of the material on record found that, the Labour Court was justified in not endorsing the termination order passed by the management and therefore no interference be made in this appeal. It is submitted that this appeal be dismissed.

4. Having heard learned advocates for the respective parties and having considered the material on record this Court finds as under:

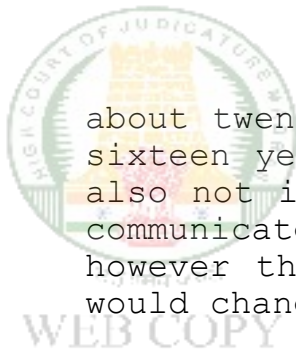
4.1 The respondent workman was employed in the year 1985. The charge against him is of remaining absent for the period from 19 December 2001 to 8 January 2002. Thus, for the absence of a period of about twenty days, the workman was terminated from service by the management.

4.2 The point at issue before this Court is, whether the termination ordered by the management for this act of the workman can be sustained going by any parameter. In this regard we find that, whether the said absence can be said to be misconduct at all, itself is an issue. Even if it is accepted to be misconduct, the case of the workman was that, he was ill during those days, he had submitted medical certificate also, that too from a Government Doctor and therefore no proceedings should have been initiated against him at all. We find that, the initiation of enquiry itself, for this absence was vulnerable and in any case, termination could not have been ordered. Labour Court and Writ Court both have held that, the impugned termination, in these facts is unsustainable. This finding can not be said to be erroneous in any manner, which may call for any interference in this intra-court appeal. This appeal therefore needs to be dismissed.

5. So far other points pressed into service on behalf of the appellant management is concerned, we answer them as under:

5.1 Whether proper opportunity was granted by the management to the workman and / or whether it was properly availed or otherwise by the workman, are the issues, which would not change the complexion of the matter, so far final outcome is concerned. Therefore that argument is not such, which should detain the Court further.

5.2 Same way, the concoction or genuineness of the document M4 is concerned, according to us, the same would also not take the case of the appellant any further in view of the glaring facts noted above. It remains that, termination was ordered for absence of



about twenty days by a workman, who was in employment for more than sixteen years. The sickness certificate by the Government Doctor is also not in dispute. Whether the leave application was rejected and communicated to the workman, on that point some dispute is raised, however the same, according to us, is not that big a factor, which would change the final outcome.

5.3 In totality we find that, independent of the reasons recorded by learned Single Judge, so far ultimate conclusion is concerned, we do not consider the same to be erroneous in any manner.

6. We find that, the stand taken by the Corporation before the Writ Court was so offending that, even cost is imposed of Rs.10,000/- (Rupees Ten Thousand only). Without finding any error with the ultimate conclusion arrived at by learned Single Judge, we find that, if the cost part is taken care of, the same would not prejudice the workman. Accordingly, the order of learned Single Judge is modified only to the limited extent of imposition of costs of Rs.10,000/- (Rupees Ten Thousand only). This is without interfering in any manner, with the reasons recorded by learned Single Judge.

7. This Writ Appeal is disposed of in the above terms. No costs. Consequently, connected miscellaneous petition would not survive.

Sd/-

Assistant Registrar (CS I)

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/ /2022

Sub Assistant Registrar(CS)

pkn

To

The Presiding Officer,
Labour Court,
Tiruchirappalli.

+2 CC to M/s.S.K.MANI, Advocate (SR-13775[F] dated 23/03/2022)

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-14052[F] dated 24/03/2022)

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MGJ(30.03.2022) 3P 5C

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