



W.P.(MD)No.1624 of 2014

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.1624 of 2014

V.Lional Singh (Died),

L.Amutha

... Petitioner

(Petitioner is substituted vide Court Order dated 14.09.2022 in W.M.P.(MD).No. 12517 of 2022 in W.P.(MD).No.1624 of 2014)

Vs.

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The Management,
Tamil Nadu Government Transport Corporation
(Madurai Division-II),
Vannarpettai,
Tirunelveli – 627 003.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned award passed by the first respondent in I.D No. 40 of 2009 dated 14.12.2011 by confirming the dismissal order passed by the second respondent in Na.Ka.No. 2359/Sa6/TNSTC /2000 and 10039/Sa6/2001 dated 18.07.2002 and quash the same as illegal and against natural justice/equity and consequently



W.P.(MD)No.1624 of 2014

direct the second respondent to award and pay all death benefits of the petitioner's husband namely V.Lional Singh (deceased) or any other monetary benefits as appropriate.

(Prayer is amended vide order dated 18.10.2022 in W.M.P.(MD).No.18064 of 2022 in W.P.(MD).No.1624 of 2014)

For Petitioner : Mr.M.Sathiamoorthy

For R-1 : Labour Court

For R-2 : Mr.K.Sathiya Singh

ORDER

The Writ Petition has been to quash the impugned order passed by the Labour Court in I.D No. 40 of 2009 dated 14.12.2011 by confirming the dismissal order passed by the second respondent dated 18.07.2002 with a consequential prayer to direct the second respondent to award and pay all death benefits of the petitioner's husband namely V.Lional Singh (deceased) or any other monetary benefits.

2. The petitioner joined as a Conductor in the second respondent Corporation on 01.04.1986 and the service was made permanent thereafter. On 28.11.2000, the petitioner sustained injuries in his left hand thumb during the



W.P.(MD)No.1624 of 2014

WEB COPY

course of his duty. On the same day, the petitioner took medical treatment and on the next day that is on 29.11.2000, the petitioner was directed to work on the same route. Due to previous injury which was inflicted on 28.11.2000, the petitioner could not carry the work on 29.11.2000 with that injury. On that day, when the petitioner tried to lift the window doors, he further got injured in the right hand thumb also. Hence, the petitioner was unable to punch the tickets and invoice the tickets in the roster, but he issued the tickets to all the 42 passengers and 4 milk cans. Thus, the petitioner had carried on his work with pain and swellings. On 29.11.2000, when the bus was proceeding from Solaiseri to Surandai, the two Ticket Inspectors namely R.Muthusamy and Murugaperumal, checked the tickets and found some discrepancies like not punching the tickets and not entered the amount of tickets in the appropriate column. The petitioner explained about his injury. The Checking Inspector has disbelieved the same in spite of submitting medical certificate dated 29.11.2000 with respect to the treatment. The respondents issued a charge memo dated 05.12.2000 framing 5 charges against the petitioner. Thereafter, the petitioner husband was suspended from service. The petitioner submitted reply vide letters dated 03.01.2001, 04.01.2001, 01.03.2001 and 17.04.2001. When the above enquiry was pending, the second charge memo dated 16.01.2001 was issued to the petitioner alleging that the petitioner abused his higher authorities and co-workers and caused



W.P.(MD)No.1624 of 2014

damage to the reputation of the respondent Corporation and violated the rules of respondent Corporation. The Enquiry Officer confirmed the charges vide his proceedings dated 21.12.2000 with respect to the first set of charges and confirmed the second set of charges on 19.02.2001. For the second set of charges, ex-parte order was passed by recording that the petitioner left the premises without participating the enquiry. Based on the two set of charges, the respondents have passed the order of dismissal from service. Aggrieved over the same, the petitioner has raised Industrial Dispute in I.D.No.40 of 2009 and the Labour Court had confirmed the charges leveled by the second respondent. Aggrieved over the same, the present Writ Petition is filed.

3. The learned counsel appearing for the second respondent submitted that the charges are serious against the petitioner. The petitioner has not punched the tickets but has issued 42 tickets. Therefore, the petitioner has misappropriated the Corporation money. The petitioner has failed to enter the tickets page wise in the previous journey, on the same day to furnish same which is in the in violation of rules. The petitioner has sold seven rupees ticket upto 96 and entered as 92 in the travel register which leads to misappropriation of the four tickets costs and the other charges are also serious in nature. The petitioner admitted that he abused one of the Checking Inspector with unparliamentary words and filthy language.



W.P.(MD)No.1624 of 2014

Thereby, he has brought bad reputation to the respondent Corporation. Hence, both the allegations against the petitioner were held to be proved and the punishment is imposed on the petitioner is proportionate, which was confirmed by the Labour Court. Therefore, this Court is not empowered to entertain the factual matters. Therefore, the respondents submitted to confirm the order of the Labour Court and prayed to dismiss this Writ Petition.

4. Heard Mr.M.Sathiamoorthy, learned counsel for the petitioner and Mr.K.Sathiya Singh, learned counsel for the second respondent and perused the records.

5. During the pendency of the Writ Petition, the writ petitioner died. Hence the petitioner's wife substituted herself through W.M.P.(MD).No.12517 of 2022 and the same was allowed vide order dated 14.09.2022 by this Court.

6. The claim of the petitioner is that the deceased petitioner was injured on his left hand thumb on 28.11.2000, inspite of injury, he reported to duty on the next day on 29.11.2000. On 29.11.2000, when he tried to open the window, again he was injured on his right hand thumb. Both the left hand thumb and the right hand thumb was injured, hence he was not able to punch the tickets. However, the

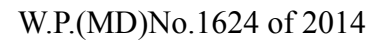


W.P.(MD)No.1624 of 2014

WEB COPY

deceased petitioner issued tickets to 42 passengers and 4 milk cans and deposited the amount with the second respondent Corporation. The Checking Inspectors while submitting before the enquiry officer has admitted that the deceased petitioner was injured on his thumbs. Even if the case of the respondents are to be accepted, then it is only procedural lapses, since it is not the case of the respondents that the deceased petitioner had received the amount and not issued the tickets, it is only not punched the tickets. Even though the Checking Inspectors had admitted the injury before the enquiry officer, but disbelieved at the time of incident and there was exchange of words between the deceased petitioner and the Checking Inspectors, which has led to initiation of second charge memo of disobedience.

7. Therefore, this Court is of the considered opinion that the allegations against the deceased petitioner, that too misappropriation is unwarranted. The deceased petitioner has clearly explained before the authorities as well as the enquiry officer. But at this stage, the matter cannot be remitted back for reconsideration by the authorities. Since the petitioner died and his legal heir namely his wife, L.Amutha is contesting this petition before this Court, therefore, in order to meet the ends of justice, this Court is of the considered opinion that the punishment of dismissal ought to be modified as compulsory retirement, so



8. With the above direction, this Writ Petition is partly allowed. There shall be no order as to costs.

Nsr



WEB COPY



W.P.(MD)No.1624 of 2014

S.SRIMATHY, J

Nsr

To

1.The Presiding Officer,
Labour Court,
Tirunelveli.

2.The Management,
Tamil Nadu Government Transport Corporation
(Madurai Division-II),
Vannarpettai,
Tirunelveli – 627 003.

Order made in
W.P.(MD)No.1624 of 2014

18.10.2022
(2/2)