



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2022

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD)No.2596 of 2014

and

M.P. (MD)No.1 of 2014

WEB COPY

The Management through the General Manager,
Tamil Nadu State Transport Corporation,
Kumbakonam Division-III,
Maruthupathy, Karaikudi,
Manakiri Road, Sivagangai District.

... Petitioner

vs.

1.The Presiding Officer,
The Labour Court,
Madurai.

2.S.Swaminathan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records from the first respondent Labour Court, Madurai, relating to the impugned Award passed by it in I.D.No.98 of 2005, dated 24.05.2011 and to quash the same in so far as the award reinstate the second petitioner into service and to pay his service benefit alone is concerned.

For Petitioner : Mr.K.S.Sathiya Singh

For R1 : Labour Court

For R2 : Mr.H.Elango

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorari, to call for the records from the first respondent Labour Court, Madurai, relating to the impugned Award passed by it in I.D.No.98 of 2005, dated 24.05.2011 and to quash the same in so far as the award reinstate the second petitioner into service and to pay his service benefit alone is concerned.

2.The brief facts of the case are that the second respondent was working as Conductor in the petitioner management for more than 12 years. On 13.06.2003, the second respondent had issued tickets to all the persons. But, failed to notice a newspaper bundle and failed to collect the ticket for the luggage. Therefore, the management issued a charge memo and after conducting proper enquiry, dismissal order was issued on 06.10.2003. While, issuing the dismissal order, the management had recorded five imputations



against the second respondent for some other delinquencies. Aggrieved over the same, the second respondent preferred a petition in I.D.No.98 of 2005. The management contested the case by filing a counter. The Labour Court after verifying the records has partly allowed the I.D. The Labour Court has directed the management to reinstate the second respondent with continuity of service and however, had denied the backwages. Aggrieved over the same, the management has filed this Writ Petition.

3.The second respondent has filed a counter affidavit stating that the newspaper bundle was not accompanied by any person and he did not notice the bundle. Since there was no person accompanied, he could not get the charge for the luggage. He prayed for dismissal of this Writ Petition.

4.Heard Mr.K.S.Sathiya Singh, learned Counsel appearing for the petitioner and Mr.H.Elango, learned Counsel appearing for the second respondent.

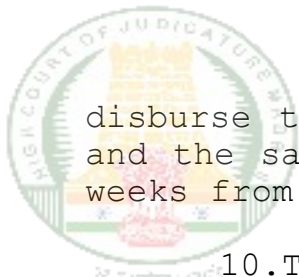
5.On perusing the records, it is seen that the allegation against the second respondent is that he had not collected the charge for the luggage to the tune of Rs.3.50/-(Rupees Three and Fifty Paise only). The contention of the second respondent is that the passengers in the bus had not paid for the ticket for the luggage and nobody accompanied the luggage. So, he could not collect the charge for the luggage. Since the management was not convinced with the explanation, after conducting an enquiry, the management had dismissed the second respondent from service.

6.On perusing the enquiry report and the explanation of the petitioner, this Court is of the considered opinion that the delinquent is absolutely right in stating he could not collect since no passenger claimed the luggage. When the luggage is not accompanied by passenger, it is not possible to collect charges. However, the delinquent ought to be vigilant that unclaimed luggage should not entertained.

7.On perusing the dismissal order, it is seen that the second respondent was kept under temporary suspension for two times and fined for one delinquency. There was stoppage of increment for six months without cumulative effect for one delinquency and for another delinquency there was stoppage of increment with cumulative effect.

8.On going through the records, it is seen that the second respondent was aged about 54 years at the time of passing of the I.D. order and he is aged about 64 years now. He has put in service for more than 12 years.

9.Therefore, this Court is inclined to modify the punishment from dismissal from service to compulsory retirement. The management is directed to implement the punishment of compulsory retirement and



disburse the terminal benefits applicable to the second respondent and the said exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

10. Therefore, the Writ Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Tmg

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

To
The Presiding Officer,
The Labour Court,
Madurai.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-85[F] dated 04/01/2022

Order made in
W.P.(MD)No.2596 of 2014
03.01.2022

NSN(CO)
GC(25.01.2022) 3P 3C