



W.P.(MD)No.7578 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **30.11.2022**

CORAM

THE HON'BLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.7578 of 2016

and

W.M.P.(MD)No.6343 of 2016

The Management,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division II) Limited,
Tiruchirappalli.

... Petitioner

Vs.

1. C.Murugan

2. The Presiding Officer,
Labour Court,
Tiruchirappalli.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the second respondent herein, dated 10.10.2012 in ID.No.44 of 2002 and quash the same.



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For Petitioner : Mr.D.Sivaraman

For Respondents : No appearance

ORDER

This writ petition is filed challenging the impugned order passed by the second respondent, dated 10.10.2012.

2. The first respondent was working as a Conductor in the petitioner's Corporation and was recruited in the year 1974. There was a serious misconduct by the first respondent. Therefore, the petitioner Corporation has initiated disciplinary proceedings and dismissed the first respondent for the 32nd misconduct. The first respondent has challenged the dismissal order and he was reinstated into service. Subsequently, the second respondent has not meant his ways. Finally there was 110 misconducts for which the first respondent has received punishments. Taking all these into consideration, the petitioner Corporation again dismissed the first respondent for the last misconduct. The first



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respondent has challenged the same before the Labour Court in I.D.No. 44 of 2002. The Labour Court has allowed the petition filed by the first respondent and set aside the order of dismissal passed by the Management and directed the Management to grant backwages for the period from the date of dismissal till the date of retirement. Challenging the same, the present writ petition has been filed.

3. The learned Counsel appearing for the petitioner Corporation submitted that the first respondent has also filed a writ petition in W.P.(MD)No.22857 of 2015, wherein, the prayer is to implement the award passed by the Labour Court. The learned Counsel appearing for the petitioner Corporation submitted that it is because of misappropriation charges the dismissal order was passed. The first respondent has committed misappropriation at least 10 times which would be evident from the final order passed by the Management. The first respondent has attained superannuation on 31.12.2003. Based on the previous charges, the petitioner is not entitled to any benefits. Hence, the Management submitted that the order passed by the Labour Court by



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quashing the dismissal order is not appropriate.

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4. The allegation against the first respondent is that the first respondent has misappropriated Rs.1.75/- whereby, he did not issue ticket after receiving the amount. The Labour Court has held that the contention of the petitioner corporation that there was a shortage of cash in cash bag. This allegation is contrary to the earlier charge since a sum of Rs.4.30 is found shortage in the cash bag, hence the explanation of the second respondent is probable and acceptable. For this finding there is no proper explanation submitted by the petitioner corporation. Moreover, the Labour Court has held that the Checking Inspector has admitted that he has not obtained any statement from the Driver. Based on these factors, the Labour Court has come to the conclusion that the charges are not proved. Since the first respondent had attained superannuation the Labour Court has directed the petitioner corporation to pay full backwages from the date of dismissal to till the date of superannuation. The first respondent was dismissed from service on 20.01.2000 and has attained superannuation on 31.12.2003.



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5. On the basis of “No Work No Pay” principle the first respondent is not entitled to backwages. Moreover, the first respondent has committed similar misappropriation and has followed the same modus operandi of misappropriation. Already for the same misappropriation which is the 32nd misconduct the first respondent was dismissed from service and has not mend his ways. Thereafter the first respondent has committed 110 misconducts. Therefore, this Court is inclined to quash the order passed by the Labour Court. The dismissal order is legally sustainable. However, the first respondent has attained superannuation without any pensionary benefits. Therefore, to meet the ends of justice, this Court is granting compensation of Rs.50,000/- Rupees Fifty Thousand only) to the first respondent. The petitioner Corporation is directed to pay the said amount to the first respondent within a period of eight (8) weeks from the date of receipt of a copy of this order.



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6. With the above said direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

The Presiding Officer,
Labour Court,
Tiruchirappalli.



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S.SRIMATHY, J

jbr

Order made in
W.P.(MD)No.7578 of 2016

30.11.2022