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W.P.No. 23005 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.09.2023

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P No.23005 of 2004

Tamilnadu State Transport
Corporation(Salem Dn.II) Ltd
Dharmapuri rep. By its
Managing Director

...Petitioner

Vs.

1. The Presiding Officer
Labour Court, Salem.

2. N. Lakshmanan

....Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 1st respondent in I.D.No.353 of 2002 dated 21.07.2003 and quash the same.

For Petitioner : M/s.R.Baby
For R1 : Court
For R2 : No appearance

ORDER

The Writ petition has been filed challenging the Award dated 21.07.2003 in I.D.No.353 of 2002 passed by the first respondent, thereby directed the petitioner to reinstate the second respondent without any back wages and without any other benefits as fresh entrants.



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2. Heard the learned counsel appearing for the petitioner.

Though notice has been served on the second respondent, none appeared on behalf of the second respondent either in person or through pleader.

Perused the materials available on record.

3. The second respondent was working as a Conductor in the petitioner Corporation. He was on duty from Dharmapuri to Tirupathur route on 30.08.2000, the Checking Inspector found that he had collected Rs. 14.25/- each from a group of 4 passengers, totalling a sum of Rs.57/- and failed to issue tickets. Further he had excess amount of 9.50/- in his cash bag. Therefore, he was issued with charge memo on 02.09.2000 and after receipt of explanation, ordered to conduct enquiry. In the domestic enquiry, the principles of natural justice was followed and the Enquiry Officer held that the charges were proved. Based on the enquiry report, the second respondent was served with show cause notice. After taking into account of all the aspects, the second respondent was dismissed from service on 28.11.2000. Therefore the second respondent raised Industrial Dispute before the first respondent.



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4. The Labour Court found that the punishment imposed on the second respondent was disproportionate and as such, ordered to reinstate the second respondent into service without any back wages and without any other benefits. The second respondent was directed to be reinstated as fresh entrant. Thereafter, the petitioner reinstated the second respondent into service on 01.06.2005. However, the second respondent was again absent for the past 1 ½ years and he failed to report duty before the petitioner. In fact, after serving of notice, the second respondent failed to engage any counsel and his name is also printed in the cause title. However, the second respondent failed to appear before this Court either in person or through his pleader.

5. That apart the second respondent was imposed the following punishments :-

Sl.No	Date of misconduct	Nature of misconduct	Punishment awarded
1.	30.06.2010	FC	Regularization postponed for 2 years
2.	23.08.2011	Unauthorized absent	Censured
3.	05.02.2012	Unauthorised absent	Absent days treated specific punishment
4.	27.11.2012	Unauthorised absent	Fined Rs.200/-
5.	06.10.2012	Unauthorised absent	Fined Rs.200/-



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Sl.No	Date of misconduct	Nature of misconduct	Punishment awarded
6.	16.04.2012	Involving Fatal Accident	Regularization postponed for 6 months
7.	26.01.2013	Not filling invoice properly	Fined Rs.100/-
8.	29.04.2013	Unauthorised absent	Fined Rs.200/-
9.	25.03.2015	Cash bag shortage	Dropped
10.	30.06.2011	FC	Case pending
11.	29.01.2017	FC	Case pending
		Total Punishments (1 st & 2 nd Appointments)	14 Punishments

6. In view of the above, the Award dated 21.07.2003 in I.D.No.353 of 2002 passed by the first respondent, is hereby quashed and is liable to be set aside. Accordingly, this Writ Petition stands allowed. There shall be no order as to costs.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

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To

The Presiding Officer
Labour Court, Salem.



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