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W.P.No.29666 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2023

CORAM

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

W.P No.29666 of 2004

and

W.P.M.P.No.36033 of 2004

State Express Transport Corporation,
Tamil Nadu Ltd.,
Pallavan Salai, Chennai – 1.
rep. by its General Manager

.... Petitioner

Vs

1. The Presiding Officer,
Principal Labour Court,
Chennai.

2. B.Umapathy (Deceased)

3. Dhanalakshmi

4. Karthik

5. Reka

6. Ravindar

(R3 to R6 are substituted as LR's of
the deceased R2 vide order dated 27.04.2019
made in WMP No.83 of 2014 in W.P.No.
29666 of 2004)

.... 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.88 of 1996 dated 31.10.2003 and quash the same.



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For Petitioner	: Mr.S.Sivasubramani
For R1	: Court
For R2	: Died (Steps taken)
For R3 to R6	: Mr.T.Saravanan

ORDER

This Writ Petition has been filed challenging the award passed by the first respondent in I.D.No.88 of 1996, thereby ordered to reinstate the second respondent with continuity of service, back wages and all other attendant benefits.

2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 3 to 6 and perused the materials available on record.

3. Now, the second respondent died and his legal heirs were substituted as R3 to R6. The deceased second respondent, while he was working as driver in the petitioner Corporation on 16.12.1992, came to night duty without uniform. Therefore, the Security Guard viz., MW.1 informed the same to the Junior Engineer. Thereafter, the second respondent left for taking tea at about 1.50 a.m. and returned to duty at about 3.05 a.m in a drunken mood and abused the Security Guard and also threatened him with dire consequences. Therefore, the deceased second respondent was served with a charge memo alleging that he has attended duty without wearing uniform ; he had left for tea at 1.50 a.m



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and came back at 3.05 a.m in a drunken state ; he had abused the Security Guard in filthy language in front of the Junior Engineer and others ; he had slept during duty time and he had failed to follow the rules and regulations of the Corporation. On receipt of the explanation, a domestic enquiry was ordered and the Enquiry Officer conducted enquiry. The Enquiry Officer concluded that the charges against the delinquent were proved. Pursuant to the same, the second respondent was even given an opportunity to submit his explanation. Without being satisfied with the explanation submitted by the second respondent, he was dismissed from service by an order dated 21.01.1995. It was challenged before the Labour Court and the Labour Court ordered to reinstate him with back wages and continuity of service. Challenging the same, the petitioner is before this Court.

4. A perusal of the records reveals that the Labour Court ordered to reinstate the delinquent on the ground that the Management failed to prove the charges except the Night Watchman, viz., Ramalingam. No other documents were filed to prove that the deceased second respondent came at 3.05 a.m. in a drunken mood. Further, no police complaint was lodged against the petitioner and no criminal Court convicted the delinquent. However, the Labour Court failed to discuss



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about the evidence of M.W.2, who had examined as M.W.2. He corroborated the same by M.W.1. Though the delinquent was not convicted by the criminal Court, it does not amount that the entire charge itself is false. The person, who was affected by the delinquent, lodged a complaint before the Junior Engineer and on his complaint only the petitioner was served with a charge memo. In fact, he returned to duty only at 3.05 a.m., that too, in a drunken mood. It is corroborated by M.W.2. Therefore, the findings of the Trial Court is perverse without considering the evidence properly. However, the punishment of dismissal from service is disproportionate to the charges. Even according to the petitioner Corporation, the delinquent came to the office without uniform. Therefore, the security refused to allow him into the office. Thereafter, he went away to have tea and had liquor and came to the office and quarrelled with the security.

5. Therefore, this Court feels that the order of dismissal is not proportionate to the charges. Accordingly, the punishment of second respondent is modified to the effect that the stoppage of one year increment with cumulative effect. The reinstatement into service with full back wages and continuity of service is modified to the effect that the reinstatement with 50% of back wages and service continuity.



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6. Accordingly, this Writ Petition stands partly allowed,
since the delinquent died and the reinstatement into service does not arise.

Therefore, the petitioner is directed to settle the terminal benefits and other benefits to the respondents 3 to 6 within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

20.09.2023

Index : Yes/No

Internet : Yes/No

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To

The Presiding Officer,
Principal Labour Court,
Chennai.

G.K.ILANTHIRAIYAN.J

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