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W.P.No.7701 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.7701 of 2023
and W.M.P.No.7898 of 2023

The Management,
Tamil Nadu State Transport,
Corporation (Coimbatore Limited)
No.37, Mettupalayam Salai,
Coimbatore – 641 043.

... Petitioner

Vs.

The General Secretary,
Tamil Nadu Arasu Pokkuvarathu,
Seerudai Paniyalar Thozhir Sangam,
Registration No.1440,
Door No.610/200,
Periyanaicken Palayam,
SRKV Post,
Coimbatore – 641 020.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the Award made in I.D.No.11 of 2020 dated 19.07.2022 on the file of the Principal Labour Court, Coimbatore, and quash the same.



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For Petitioner : Mr.T. Chandrasekaran

For Respondent : Mr.R.P. Murugan Raja,
Government Advocate

ORDER

The brief facts of the case are as follows:-

The charge against one Driver namely S. Prakash, who is the member of the Trade Union, was that he has caused an accident resulting in injuries to the pillion riders of motorcycle, which was termed as a 'misconduct' under Section 14(a)(ad) of the standing order of the petitioner/Transport Corporation. On receipt of the explanation dated 21.08.2015, the petitioner/Corporation, directly imposed a punishment of stoppage of annual increment for one year without cumulative effect. Challenging the said punishment, when the respondent filed an Industrial Dispute in I.D.No.11 of 2020, the Labour Court had passed an award dated 19.07.2022, setting aside the order of punishment dated 25.08.2015 and directed the petitioner/Corporation to grant annual increment to the concerned Driver. This award is put under challenge in the present Writ Petition.



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2. The Labour Court had predominantly allowed the Industrial Dispute on the ground that no inquiry was conducted by the Transport Corporation before imposing the punishment. Such a reasoning is well substantiated through various decisions of the Hon'ble Supreme Court, as well as the High Courts. In '*Khardah & Co. Ltd. Vs. Its Workmen*' reported in '*(1963) II LLJ 452*', the Hon'ble Supreme Court had held that the charges of misconduct, if proved, will result not only in depreciation of livelihood of the workman, but will also attach stigma to its character. The Industrial Tribunal therefore, insists on a proper inquiry being held. The only exception for not holding an inquiry would be when the concerned workman admits his guilt as held in '*Central Bank of India Ltd., Vs. Karunamoy Banerjee*' reported in '*(1967) II LLJ 739*'. In '*Andhra Handloom Weavers Cooperative Society Limited Vs. Labour Court, Hyderabad & others*' reported in '*(1976) Lab I.C. 932*', that in the absence of clear or unambiguous admission of guilt, the failure to hold domestic inquiry would constitute a serious infirmity in the punishment order.



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3. In these cases, '*Rohtas Industries Ltd., v. Ali Hasan, [1963] I L.L.J. 253 (S.C.), per Gajendragadkar, J.; Associated Cement Companies Ltd., v. Their Workmen, [1963] II L.L.J. 396 (S.C.), per Gajendragadkar, J.; Khardah & Co. Ltd. v. Its Workmen, [1963] II L.L.J. 452 (S.C.), per Gajendragadkar, J.; Provincial Transport Service v. State Industrial Court, [1962] II L.L.J. 360 (S.C.), per Das Gupta, J.; Tika Ram & Sons v. Their Workmen, [1960] I L.L.J. 514 (S.C.), per Gajendragadkar, J.*, the Hon'ble Supreme Court has said that an inquiry is not an empty formality but it is an essential condition to the legality of the disciplinary order.

4. In line with the aforesaid decisions, the procedure adopted by the petitioner/Corporation in straightaway imposing the punishment, without conducting an inquiry, is legally unsustainable. Consequently, the award of the Labour Court, setting aside the punishment imposed on the member of the respondent/Trade Union, cannot be found fault with.



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5. Accordingly, there are no merits in the present Writ Petition and the same stands dismissed. No costs. Connected miscellaneous petition is closed.

13.03.2023

Speaking Order
Index: Yes
Internet: Yes
Neutral Citation: Yes

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To

The General Secretary,
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M.S.RAMESH, J.

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