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WP.No.24703 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.10.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.24703 of 2011

M.Thirumurthi

...Petitioner

vs.

1.The Presiding Officer,
Labour Court,
Coimbatore.

2.The Management,
Tamil Nadu State Transport
Corporation (Coimbatore Division-I) Ltd.,
Mettupalayam,
Coimbatore.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the Award dated 17.09.2009 in I.D.No.454/2000 passed by the 1st respondent, quash the same and consequently direct the 2nd respondent to reinstate the petitioner and on paper from the date of dismissal to the date of superannuation, with backwages, continuity of service and all other attendant benefits and also settle petitioner forthwith all terminal benefits including pension, Award costs.

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For Petitioner : M/s. V.Porkodi
for Mr.V. Ajoy Khose

For Respondents : R-1- Court
R-2- Mr.M.Arun
for Mr.A.Sundaravadhanan

ORDER

Writ petition is filed challenging the award passed by the Labour Court in I.D.No. 454 of 2000 dated 17.09.2009 filed by the petitioner.

2. The gist of the case is as follows:

The petitioner was employed as a driver in the respondent Transport Corporation on 20.04.1980 and was made as a permanent driver on 01.09.1981. While so, the petitioner was issued with the charge memo dated 20.06.1998 and suspended with effect from 16.06.1998. Two charges were framed against the petitioner under the charge memo. First charge was in respect to the order of the checking Inspector and the second charge was in respect to the incident that took place on 09.06.1998, when the petitioner in a drunken mood abused the checking Inspectors



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Mr.Ayyasamy and Mr.Subramaniam. The misconducts for which the petitioner was charged were under Clauses 14 (b)(k)(u) of the Corporations Standing Orders. The petitioner submitted his explanation to the charge memo on 27.06.1998 and a domestic enquiry was conducted and the enquiry officer submitted his findings on 31.12.1998, recording that the charges levelled against the petitioner were proved. Based on the enquiry officers finding, a second show cause notice vide letter dated 01.03.1999 was issued to the petitioner calling for his explanation. The petitioner called for some documents with respect to his earlier punishment vide letter dated 27.03.1999 to the General Manager, to which a reply was sent on 26.04.1999 stating that as the second show cause notice referred to earlier punishments, there was no necessity to furnish any document. The petitioner was thereafter dismissed from service vide the order dated 01.03.2000. The petitioner raised the dispute, which was referred to the Labour Court and numbered as I.D.No.454/2000.



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3. Before the Labour Court, the petitioner neither examined himself nor filed any documents. On the side of the respondent Transport Corporation, Ex.M1 to Ex.M17 were marked and no oral evidence was let in.

4. The Labour Court on an appreciation of the entire evidence on record found no perversity in the enquiry proceedings. On the quantum of punishment, the Labour Court considering the past conduct of the petitioner and also the severity of the misconduct, held that the punishment imposed was proportionate to the nature of misconduct of the petitioner. Aggrieved by the award passed by the Labour Court, the petitioner has filed the above writ petition.

5. The learned counsel for the petitioner submitted that the petitioner had put in 19 years of service, therefore some leniency ought to have been shown by the Labour Court. The learned counsel submitted that this Court should interfere with the quantum of punishment by considering the past



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services of the petitioner. The learned counsel further relied on the Division Bench order of this Court in W.A.No.1835 of 2021 and prayed that the award may be modified directing the Transport Corporation to reinstate the workman but without any backwages.

6. The learned counsel for the 2nd respondent on the other hand submitted that absolutely no sympathy should be shown to the petitioner, as his past record would show that he was earlier punished 25 times and on one occasion, he was imposed with punishment of dismissal from service. Therefore the learned counsel submitted that the award of the Labour Court should not be interfered with.

7. I have heard both the learned counsels and I have perused the materials placed on record.

8. The only point that is agitated before me is whether the past service of 19 years rendered by the petitioner should be considered for



taking a sympathetic view of the punishment imposed by the Management.

9. It is seen that in pursuance of the findings of the enquiry officer, a second show cause notice was issued to the petitioner on 01.03.1999 under Ex.M9, wherein the earlier punishments imposed on the petitioner on 25 occasions were clearly mentioned. The counter to the claim petition filed by the 2nd respondent in para '7' deals with the past record of the petitioner, which was also narrated in the second show cause notice. Para '7' of the counter to the claim petition is extracted hereunder.

“ The Enquiry Officer found the petitioner guilty of misconduct. The 2nd show cause notice was issued to the petitioner. The past record of the worker was remarkable in the sense, he had been punished 25 times for different acts of misconduct. On one occasion the petitioner was dismissed from service and offered reemployment. On 3 occasions, the petitioner had been punished for misbehaviour in a drunken state. Out of these 3 occasions the petitioner was suspended for 30 days (penultimate punishment before dismissal from service) and on one occasion his annual increment has postponed by 6 months with cumulative effect. Further on 8.1.97, the



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petitioner drove the bus rashly and negligently and knocked down two persons who were pushing a cart. Out of the two, one died and another suffered grievous injuries. The Corporation is facing a claim for compensation of Rs.5,00,000/- and the Corporation has already paid Rs.95,000/- to another person as compensation. For this misconduct, the petitioner was suspended for 30 days. An examination of the past record of the worker would show that he was not entitled to any lenience. The misconduct on the part of the worker is also serious since the petitioner had behaved in a defiant manner. The petitioner had by his conduct brought discredit to the Corporation in the eyes of the passengers who were near the office of the Corporation. It was therefore clear that the petitioner was not entitled for any sympathy and therefore by order dated 1.3.2000, the petitioner was dismissed from service."

10. It is relevant to note here that the petitioner did not submit a reply to the second show cause notice, which referred to the past record of the petitioner. From the narration of the past record of the petitioner, it is clear that the petitioner though rendered 19 years of service, his conduct has been reprehensible. The petitioner misbehaved with the checking Inspector in a drunken mood and further disobeyed the orders of the checking



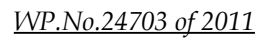
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Inspector in public. Therefore, I find no impropriety or illegality in the order of the Labour Court. Following the Judgment of the Hon'ble Supreme Court in the case of *Mahindra and Mahindra Ltd., vs. N.B.Naravade* reported in 2005-I LLJ page 1129, I am not inclined to accept the submission of the counsel for the petitioner that a sympathetic view should be taken, moreso when the misconduct committed by the petitioner is grave and his past conduct is also reprehensible.

I am therefore of the view that there are no merits in the writ petition and the same is dismissed. The award of the Labour Court in I.D.No.454 of 2000 dated 17.09.2009 passed by the 1st respondent is confirmed. There shall be no order as to costs.

18.10.2023

Index: Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No
dsn



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Tamil Nadu State Transport
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N.MALA, J.

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