



WP.No.10603 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10603 of 2018
& WMP.No.12567 of 2018

The Management, Tamil Nadu
State Transport Corporation
(Salem) Limited, Salem-7.

...Petitioner

Vs

1.Tamil Nadu State Transport
Corporation Employees'
Union, Salem-9.

2.The Labour Court, Salem.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the award dated 28.7.2016 passed by the second respondent in I.D. No.229 of 2010 and to quash the same.

For Petitioner : Mr.R.Babu
For Respondent-1 : No appearance



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ORDER

This is a petition filed by the Management of the State Transport Corporation to quash the award dated 28.7.2016 in I.D.No.229 of 2010 passed by the second respondent.

2. Though the first respondent was served, none appears on behalf of them. However, considering the pendency of this Writ Petition which is of the year 2018, this Court is inclined to dispose of this Writ Petition based on the materials available on record.

3. The facts leading to filing of this case are as follows :

(i) One Mr.V.Thangavel, who was the member of the first respondent - union, was working as Assistant from 20.9.1995 in the petitioner corporation. On 26.5.2002, he was working at Vazhappadi Branch in the maintenance shift from 2 PM to 10 PM and had serviced a bus belonging to Vazhappadi Branch. He was already informed that buses plying in the hilly routes need to be maintained with due care, as any failure would cause an accident very easily. When the bus was taken from Vazhappadi Branch to



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Vazhappadi Depot, the clutch socket of the bus got extricated and fell down thereby suffering a break down. The bus was serviced again, as a result of which, there was inconvenience caused to the passengers thereby bringing down the reputation of the petitioner corporation among the general public.

(ii) Pursuant to that, the said Mr.V.Thangavel was served with a charge memo dated 18.6.2002, to which, he sent a reply dated 28.6.2002. As the reply given by him was not found satisfactory, a domestic inquiry was initiated after serving the notice dated 19.7.2002. He also participated in the inquiry held on 11.9.2002. Ultimately, the Enquiry Officer found the charges framed against him as proved. Thereafter, the second show cause notice dated 28.9.2002 was issued, to which also, the said Mr.V.Thangavel sent a reply. As the said reply also was not found satisfactory, the final order dated 27.11.2002 was passed awarding the punishment of withholding of increment for one year with cumulative effect. Aggrieved by the punishment imposed, the said V. Thangavel, through the first respondent - union, initiated conciliation proceedings before the Labour Officer, Salem after a period of six years and it ended in failure. Thereafter, the first respondent



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raised the industrial dispute before the second respondent in 2010 seeking to set aside the final order dated 27.11.2002. In that, the petitioner filed a reply. However, by the impugned award, the second respondent allowed the industrial dispute. Challenging the same, the petitioner is before this Court.

4. Learned counsel appearing for the petitioner management would submit that the bus serviced by him became unserviceable immediately after travelling less than 2 Km to Vazhappadi Bus Depot. The contention of the said Mr.V.Thangavel that he had no knowledge in the field of maintenance was false considering the fact that he had been working in the petitioner corporation from 20.9.1995. Therefore, for the said misconduct, the punishment of stoppage of increment for one year with cumulative effect was imposed on the 1st respondent. However, the 2nd respondent without considering the fact that the punishment awarded to the 1st respondent was proportionate to the misconduct committed by him, had set aside the same vide the present impugned award is not sustainable. Accordingly, he prayed for allowing the allowing the Writ Petition.



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5. This Court heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. For the said misconduct, the management imposed the punishment of stoppage of increment for a period of one year. Against which, said V.Thangavel raised an industrial dispute through the 1st respondent before the 2nd respondent Labour Court, wherein, the Labour Court had set aside the punishment imposed by the management holding that no documents have been produced by the management with regard to the allegation levelled against the workman as also the details of work allocated to the workman.

7. It is the claim of the petitioner management that if the workman had been more careful in maintaining the bus which was the duty assigned to him, the inconvenience caused to the passengers as also the delay caused to reach the Vazhapadi bus depot could have been averted, however, the same was merely because of the negligence on the part of the workman.



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Though it is the claim of the workman that since he is not technically qualified and that he had no knowledge about maintenance work in the bus, however, it is seen from the impugned award that it is the technical staff namely R.Srinivasan who carried out the maintenance work on the said day and that the workman was assisting him for the same. It is further seen that the very same allegation was levelled against the said R.Srinivasan and that the very same punishment was imposed on him which was not denied by the 1st respondent union. Such being the case, this Court is at a loss to understand that as to how the Labour Court had held in favour of the workman holding that the workman cannot be held responsible for the damages caused to the management. Hence, this Court is of the view that the findings rendered by the Labour Court for setting aside the punishment of stoppage of increment for one year with cumulative effect imposed by the management as perverse and therefore this Court is inclined to set aside the impugned award of the Labour Court and accordingly, the impugned award is hereby set aside.



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8. This Writ Petition is allowed in the above terms. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

NHS

To
The Labour Court, Salem.



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