



WP.No.31014 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated: 14.03.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P. No.31014 of 2013
and M.P.No.1 of 2013**

The Branch Manager,
M/s. Tamilnadu State Transport Corporation Ltd.,
Puducherry Branch,
Puduchery.

... Petitioner

Vs.

1.The Presiding Officer,
Industrial Tribunal,
(Principal District Court)
Puduchery.

2. V. Subramanian

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records and the order passed by the 1st respondent in I.A.No.98 of 2011 in I.D.No.5 of 2011 dated 20.12.2011 and quash the same.

For Petitioner : Mr. M. Aswin

For Respondents : Mr.D.Padmanabhan for R2
R1- Court



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ORDER

This writ petition is filed by the petitioner/Management as against the the order passed by the Industrial Tribunal/1st respondent in I.A.No.98 of 2011 in I.D.No.5 of 2011 dated 20.12.201, whereby, the 2nd respondent/workman was granted the relief of full back wages till the date of reinstatement and also directed the petitioner/management to conduct fresh enquiry and to pass orders.

2. The 2nd respondent-workman was employed as a driver in the petitioner-Transport Corporation/management. The allegation against the workman was that during the course of inspection, the 2nd respondent was found with cell phone while driving the bus No. TN – 32 – N - 2639 in the route Thiruvannamalai to Puduchery on 05.02.2021. When the said act was questioned, it was alleged that the workman threatened the checking inspector and used filthy language against him. Considering the seriousness of the offence, the Management suspended the 2nd respondent



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from service with effect from 18.02.2011. He was served with a charge memo dated 09.11.2011. According to the Management, the 2nd respondent failed to give reply to the said charge memo, so after conducting detailed enquiry, he was dismissed from service on 30.07.2011.

3. Aggrieved against the order of dismissal from service, the 2nd respondent/workman filed a Petition in I.A.No.98 of 2011 in I.D.No.5 of 2011 before the Industrial Tribunal and after trial, I.A.No.98 of 2011, was ordered as under:-

“ (i) the petitioner shall be given full back wages till the date of reinstatement.

(ii) Enquiry shall be conducted afresh.

(iii) The petitioner shall not adopt dilatory tactics and shall participate the enquiry.

(iv) Thereafter, the respondent shall pass orders on the charges against the petitioner.”



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4. Aggrieved by the above said order passed in I.A.98 of 2011, pending the main I.D., the petitioner/Management has filed this writ petition.

5. The learned counsel for the petitioner/Management, would submit that the Industrial Tribunal, without going into the charges levelled against the workman, gave several opportunities to the workman and granted relief to the workman, which will result in hardship to the petitioner corporation to maintain discipline among the workers.

6. On the other hand, the learned counsel appearing for the 2nd respondent/workman would submit that the main I.D., is pending and that there is violation of natural justice in the conduct of enquiry and therefore, the Industrial Tribunal has rightly set aside the order of dismissal.

7. Heard the learned counsel on either side and perused the materials available on record.



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8. A perusal of the order passed in I.A.No.98 of 2011 in I.D.No.5 of 2011, would go to show that the Industrial Tribunal, after trial, found that the exparte order of dismissal passed against the 2nd respondent-workman cannot be considered to be valid one in the eye of law. Therefore, the Tribunal, for the purpose of conducting fresh enquiry as against the 2nd respondent-workman, set aside the dismissal order and ordered full backwages till the date of reinstatement.

9. The findings of the Tribunal make it clear that main I.D. is pending which was filed for redressal of various demands of the workers union. The 2nd respondent-workman was the President of the said Union and therefore, the 2nd respondent, who is a protected workman as per the definition under Section 33-A of the I.D.Act, cannot be dismissed from service when the main I.D., is pending.



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10. In the considered opinion of this court, the order of the Industrial Tribunal passed in I.A.No.98 of 2011 in I.D.No.5 of 2011, is a well considered one. The challenge to the said order that too when the main I.D., is pending, has no merits. The impugned order does not call for any interference by this court. Accordingly, the Writ Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

The Presiding Officer,
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