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W.P.No.10161 of 2019 & W.M.P. Nos.10723 of 2019 & 27083 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.10161 of 2019 &
W.M.P. Nos. 10723 of 2019 & 27083 of 2022

The Management,
Tamil Nadu State Express Transport Corporation
(Tamil Nadu) Limited,
Pallavan Salai,
Chennai 600 002

... Petitioner

Vs.

E. Ravi

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari calling for the records pertaining to
the Award dated '09.07.2018 passed by the Labour Court, Salem in I.D.
No.42 of 2013 and quash the same.

For Petitioner : Mr.K. Kathiresan

For Respondent : Mr. R.M.D. Nasrullah



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ORDER

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Challenge in this Writ Petition is made to the Award passed by the Labour Court, Salem, in I.D. No.42 of 2013.

2. The respondent was working as a conductor in the Tamil Nadu State Express Transport Corporation (Tamil Nadu) Limited and according to the Writ Petitioner, the respondent unauthorisedly absented himself from attending duty since 21.04.2004 onwards. Therefore, a charge memo dated 29.04.2004 was issued to the registered address of the respondent. Since the same was refused to receive by him, it was published in a Newspaper. Subsequently, the Enquiry Officer set the respondent *ex parte* and after conducting enquiry held that the charges are proved. Later, the Disciplinary Authority, after issuing second show cause notice, dismissed the respondent from service vide his orders dated 04.02.2006. Thereafter, the respondent raised an Industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 before the Labour Court, Salem in I.D. No.42 of 2013.



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2.1. The learned Labour Court Judge, vide his orders dated 09.07.2018 allowed the said Application and set aside the order of dismissal passed by the Writ Petitioner Management on the ground that the Management has not conducted the enquiry properly and that there is violation of principles of natural justice. Aggrieved by the said orders, the petitioner Management has filed this Writ Petition.

3. Mr.K. Kathiresan, learned counsel for the Writ Petitioner contended that the respondent continuously absented himself and refused to attend the enquiry proceedings and therefore he was set ex parte and the Enquiry Officer also gave a finding that the charges framed against the respondent are proved. Therefore, it cannot be stated that there is a violation of principles of natural justice while conducting the domestic enquiry. He therefore prayed for allowing the Writ Petition.

4. Per contra, Mr. R.M.D. Nasrullah, learned counsel for the respondent would contend that the Labour Court after analysing the oral and documentary evidence adduced on both sides had clearly held that the Management had not conducted the enquiry properly and since this



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finding is based on facts, this Court cannot invoke the provisions of Article 226 of the Constitution of India.

5. The Award passed by the Labour Court, Salem, shows that copies of the charge memo, enquiry report and the attendance register maintained by the Writ Petitioner Management were not filed before the Labour Court. The contention of the respondent was that he infact submitted a leave letter along with a Medical Certificate and that the same has not been considered by the Management. This aspect has also been dealt with by the Labour Court in its order. In fact, the witness who was examined on the side of the Management had deposed that the respondent had submitted four letters seeking to grant leave from 21.04.2004 and the first of such letters was submitted on 21.04.2004 itself. He also admitted that along with the said leave letter, the respondent submitted a Medical Certificate. The contention of the learned counsel for the Writ Petitioner that the respondent has the habit of absenting himself from attending duty and on several occasions he was left with a warning, has not been substantiated by adducing any documentary evidence.



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6. In the circumstances, I do not find any reason to interfere with the Award passed by the Labour Court. Accordingly, the Writ Petition is dismissed. No costs. Consequently connected Writ Miscellaneous Petitions are closed.

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bga

Index : yes/no

Speaking /Non speaking Order



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R.HEMALATHA, J.

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