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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No.30381 of 2014

1.The Management,
Tamil Nadu State Transport Coporation
(Villupuram) Division-II Ltd.,
Vellore Region,
Bangalore Trunk Road,
Rangapuram,
Vellore – 632 009. ..Petitioner

Versus

1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.The General Secretary,
Tamil Nadu Government Transport
Employees Union,
Thiruvanamalai Region,
Thiruvanmalai. ..Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the records of the order passed by the first respondent in Industrial Dispute in Industrial Dispute No.27/2013 dated 27.05.2014 and to quash the same.

For Petitioner : Mr.M.Ashwin
For Respondents : Ms.Porkodi
for second respondent
first respondent-Court

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ORDER

It is a case where the employees' union had raised a dispute. It was to set aside the punishment order of stoppage of two years of increment with cumulative effect passed by the respondent.

2. An industrial dispute was raised by the Union under Section 2(K) of the Industrial Disputes Act, 1971. A failure report was given on 29.05.2012 by the Labour Officer. The petition was filed on behalf of one Narayanan, who was working as a Conductor in Cheyyar Government Transport Workshop.

3. According to the writ petitioner, on 05.11.2004, the said Narayanan was on duty in the bus bearing No.241/A. The allegation is that a female passenger had boarded at the Chetpet German Hospital stop and she had tendered a sum of Rs.10/- to the said Narayanan. Narayanan having received Rs.10/- did not issue the ticket for Rs.7/-. On the way, a Ticket Checking Inspector had boarded the bus and made a spot enquiry. He gave a ticket of Rs.4/- and returned the balance of Rs.6/-. In the internal inquiry conducted by the writ

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petitioner, the said Narayanan had proved his innocence but still was visited with the punishment of two years of stoppage of two increments with cumulative effect. Challenging the same, the I.D. had been filed.

4. On entering appearance, the respondent Management filed a counter stating that a passenger had boarded the bus at Chetpet German Hospital stop for the purpose of travelling to Pappampatti. The bus fare for the said distance was Rs.7/- but the conductor pocketed Rs.10/- and did not issue a ticket. All of a sudden, noticing the Ticket Checking Inspector, he gave a ticket for Rs.4/- and change of Rs.6/-. After recording the statement of the parties, a domestic enquiry was conducted against the said Narayanan. Since the charges were proved, the Management justified the imposition of the punishment. On the side of the petitioner, one witness was examined and one document was marked. On the side of the respondents, one witness was examined and nine documents were marked that is from Exs.M.1 to M.9.

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5. The Industrial Tribunal came to a conclusion that the charge was not proved as neither the woman passenger nor the Ticket Checking Inspector, Krishnamurthi had been examined to substantiate the charge. It took note of the fact that while it would have been difficult for the management to record the evidence of the passenger, it was not beyond its powers to examine Krishnamurthi, who was the Ticket Checking Inspector on duty on that day. It also came to a conclusion that no effort had been made to even substantiate the allegation by recording the evidence of any other passenger who would have traveled in the bus. In fine, the Court came to a conclusion that the important evidence of Krishnamoorthy had been withheld by the management and the lady Ellammal not having been examined the case of the management was not proved.

6. It also came to a conclusion that the domestic enquiry that was conducted was not in accordance with law because the required documents had not been given to the said Narayanan. In the over all consideration, the Court came to a conclusion that the findings of the enquiry officer is not correct and that charges framed against Narayanan, the conductor had not been proved. Accordingly, it set

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aside the order with respect to stoppage of increment and ordered that the petitioner is entitled to get back the increment without any deduction. Challenging the same, the present writ petition has been filed.

7. Mr.M.Ashwin, learned counsel for the petitioner, would argue that, as there is no dispute with regard to non-issuance of the ticket of Rs.10/-, the non-examination of Ellammal, the woman passenger is not fatal. He would further submit that the punishment was only a minor one and therefore interference by the Labour Court is unnecessary. He would further state that there is no such rule that the charge has to be proved beyond reasonable doubt and the enquriy officer having satisfied himself, the Labour Court ought not to have interfered with the same.

8. Ms.V.Porkodi, Learned counsel appearing for the second respondent would submit that, it is not a case of minor infraction of violation of natural justice but total violation of principles of natural justice. She would substantiate the same by saying as many as 6 documents were sought for at the time of inquiry, but the Management

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had deliberately withheld three documents and had furnished the petitioner only with three other documents which are not material to the facts of the case. She would state that the Labour Court had applied its mind and had come to a proper conclusion. Therefore, there is no necessity to interfere with that order.

9. I have carefully considered the arguments of both sides. Here is the case where the Labour Court had come to a clear and a categorical conclusion based on objective materials that when the petitioner had sought for six documents, despite the fact those documents were available with the Management, the same were deliberately withheld. Apart from that, in order to substantiate the case, nobody was examined that is neither the woman passenger Ellammal nor Krishnamoorthy, the traveling ticket Inspector nor any other passenger had been examined in order to substantiate the allegation that the conductor had pocketed Rs.10/- but had issued only a ticket for Rs.4/. These are matters of fact which have been gone into by the Labour Court. The Labour Court has rightly come to a conclusion that the domestic enquiry was not proceeded in accordance with law and that there is violation of principles of natural justice.

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When there is no evidence to substantiate the charge, be it minor or major, workman cannot be visited with punishment. That being the situation, the order of the Labour Court is valid and in accordance with law and it does not require any interference at the hands of this Court. Accordingly, the Writ Petition is dismissed. There will be no order as to costs. Consequently, M.P.No.1 of 2014, is closed.

01.06.2023

Index : Yes/No
Neutral Citation : Yes/No
mrn

To
1.The Presiding Officer,
Principal Labour Court,
Vellore.

2.The General Secretary,
Tamil Nadu Government Transport
Employees Union,
Thiruvanamalai Region,
Thiruvanmalai.

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V. LAKSHMINARAYANAN, J.

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