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W.P.No.4236 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.4236 of 2016
and WMP No.3545 of 2016

The Management,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai-600 002

... Petitioner

Vs.

1.T.Magesh Kumar

2.The Presiding Officer,
Principal Labour Court,
City Civil Court Annexure Buildings,
High Court Compound,
Chennai-600104.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records pertaining to the order passed in I.D.No.9 of 2013 dated 30.09.2014 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.M.Chidambaram

For Respondents : No appearance (For R.1)
R.2 - Court



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ORDER

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The first respondent herein had joined the services of the petitioner Corporation in the year 1992. Through the proceedings dated 30.05.2006, the petitioner was terminated from service. Challenging the order of termination, the petitioner has raised a dispute under Section 2(A)(2) of the Industrial Disputes Act, 1947 before the Principal Labour Court, Chennai, which had passed an Award dated 30.09.2014, directing the petitioner Corporation to reinstate the first respondent with continuity of service and 50% of back wages. The said Award is challenged in this writ petition by the Corporation.

2. Learned counsel for the petitioner submits that after charges were framed on 04.02.2006, the first respondent failed to render his explanation. He was earlier punished four times for unauthorised absence and since he is a habitual absentee, the major punishment of removal from service was passed. Learned counsel also stated that no leave letter was given by the first respondent herein for his absence.

3. Though the first respondent has been served and his name is printed in the cause list, none appears. In this background, the Award of the Labour Court



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is perused.

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4. It is seen that before the Labour Court, the first respondent herein examined himself as a witness and had marked Exs.W.1 to W.13, in which, all the medical certificates, claimed to have been given to the employer. On the side of the Management, one witness was examined and no document was marked. The Labour Court had considered the evidences and had observed that the Management Corporation had not produced any records to show that the charges were framed against the first respondent herein, since neither charge memo nor postal acknowledgement by them has been produced. There was also further observation that the order of termination is passed without conducting any domestic enquiry, for which the Management has not produced any documentary evidence.

5. In this background, the Labour Court has come to the conclusion that the termination of the employee without conducting a proper enquiry is unsustainable. However, by taking note of the fact that there was a delay of 7 years in raising an industrial dispute, the Labour Court has reduced the back wages to 50%.



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M.S.RAMESH,J.

sr

6. I do not find any infirmity in the findings of the Labour Court. It is a settled proposition of law that when the Management intends to terminate the service of one regular employee, the same should be preceded by a proper enquiry after following the principles of natural justice. In the instant case, when the Management had failed to substantiate that they had framed charges against the first respondent herein, which was served on him and also the fact that an enquiry was conducted in this case, the findings of the Labour Court, ordering for reinstatement cannot be found fault with.

6. Accordingly, there is no merit in this writ petition and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

07.02.2023

Speaking/Non-speaking order

Neutral Citation: Yes/No

Index: Yes/No

Internet: Yes/No

To

The Presiding Officer,

Principal Labour Court,

City Civil Court Annexure Buildings,

High Court Compound, Chennai-600104.

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