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W.P. No.22513 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:02.02.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.22513 of 2014

and

M.P. No.1 of 2014

The Management
Metropolitan Transport Corporation (Chennai) Ltd.,
Rep. by its Sr. Deputy Manager (HRD)
Pallavan Illam
Chennai-2.

... Petitioner

Vs.

1.A.P. Babu
Dr. Ambedkar Transport Corporation
Employee Union
No. 52, Cooks Road
Perambur
Chennai.

2. The Presiding officer
III Additional Labour Court
City Civil Court Annexure Buildings
High Court Compound
Chennai-600 104.

... 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 pertaining to the award dated 08.07.2013 made in I.D.No.341 of 2004 on the file of the 2nd respondent



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herein and quash the same.

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For Petitioner : Mr.M.Chidambaram
For Respondents : Mr.S.Ravi for R1
R2 - Court

ORDER

Challenging the order dated 08.07.2013 passed by the 2nd respondent in I.D.No.341 of 2004, the petitioner-Corporation has filed the present Writ Petition, whereby the punishment imposed on the 1st respondent is set aside and further the petitioner – Corporation was directed to restore the original scale of pay of the 1st respondent, with increments.

2.It is averred in the affidavit of the Writ Petition that the 1st respondent joined the Office of the petitioner Corporation as Security Guard on 22.10.1979. When the 1st respondent worked as Security Guard at Tondiarpet Depot – II, Audit inspection was carried out for the period from 01.04.1995 to 31.05.1996. At the time of inspection it was found that there was a huge shortage of HSD Oil, to the tune of 1,07,980 litres, worth about Rs.8,35,000/-.

Alleging negligence on the part of the 1st respondent, a charge memo was issued to him on 09.09.1996. After following due procedure and also not being



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satisfied with the explanation submitted by the 1st respondent, the petitioner – Corporation imposed the punishment of withholding the annual increment for 2 years with cumulative effect and an order of recovery of Rs.83,500/- from the salary of the 1st respondent.

3. Aggrieved against the order of the petitioner – Corporation, the 1st respondent raised an Industrial Dispute before the Labour Court, Chennai, in I.D.No.341 of 2004, whereby the Presiding Officer, Labour Court, after giving due opportunity to all the parties concerned, set aside the punishment imposed on the 1st respondent. As against the award of the Labour Court, the petitioner – Corporation has filed the present Writ Petition.

4. The learned counsel appearing for the petitioner – Corporation would submit that the 1st respondent is duty bound to check up the diesel load and the quantity of unloaded diesel and the entries made in the diesel oil register at the security wing has to be compared with the depot stores register and in case of any difference, the same has to be immediately brought to the notice of the higher officials, which was not done by the 1st respondent herein. The 1st



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respondent was charge sheeted for dereliction of duty as well as causing loss to the Transport Corporation, due to the shortage of HSD Oil. As the misconduct committed by the 1st respondent is serious in nature, the Transport – Corporation imposed the punishment of withholding the annual increment for 2 years with cumulative effect and an order of recovery of Rs.83,500/- from the salary of the 1st respondent. Further, the case of the 1st respondent was properly considered and only on the basis of the findings of the enquiry officer, holding the 1st respondent guilty of the charges, the above punishment and an order of recovery was ordered, and therefore, no interference is called for at the hands of the 2nd respondent.

5.The learned counsel appearing for the 1st respondent would submit that the punishment imposed by the petitioner – Corporation is nothing but double jeopardy. Secondly, the 1st respondent was found guilty of dereliction of duty, in not maintaining the diesel oil registers. The said diesel oil registers were not an official register, it was only a personal record and when the diesel oil register not being an official record, the 1st respondent cannot be held responsible for



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not maintaining the said record. Thirdly, the punishment imposed on the 1st respondent is solely based on the audit report, where his name was not mentioned and the 1st respondent was not even implicated. The persons who are actually placed in, for receiving the oil are responsible for the shortage and therefore, the Labour Court by rightly appreciating the facts on hand, set aside the punishment imposed on the 1st respondent and further directed to restore the original scale of pay with increments to the 1st respondent.

6.Heard both sides and perused the materials available on record.

7.Admittedly, based on the audit report, it was found that there was a shortage of 24000 liters of Diesel and thereby the petitioner – Corporation incurred with the loss of Rs.1,85,553.85/-. The 1st respondent being a Security Guard is confined to make entries in the In and Out Register, regarding the Registration Number of all the vehicles, which comes in to the depot and goes out of the depot. Based on the audit report, the 1st respondent was suspended from service and issued with the charge memo. However, in the audit report, his name was not mentioned and he was not even implicated by the Auditor.



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8. Ordinarily, the appellate authority does not interfere with the findings of fact of the trial court, unless it finds that the findings are unreasonable or vitiated for the reason of an error of law, procedure or omission of a kind that rendered the finding perverse or unreasonable. The appellate court shall not substitute its own views on the evidence and facts for the views of the trial court. In the instant case, this Court finds no infirmity or illegality in the order dated 08.07.2013 passed by the 2nd respondent in I.D.No.341 of 2004.

9. In the result, this Writ Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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To
The Presiding officer
III Additional Labour Court
City Civil Court Annexure Buildings

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High Court Compound
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