



W.P.No.1270 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	20/11/2023
Delivered on	11/12/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.1270 of 2014

The Managing Director
State Express Transport Corporation TN Ltd
Division 1
Pallavan Salai
Chennai 2.

...

Petitioner

Vs

1. N. Nessayyan

2. The Presiding Officer
I Additional Labour Court
City Civil Court Buildings
Chennai 600 104.

...

Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorari to call for the records pertaining to the order dated 7/8/2013 made in I.D.No.318 of 2006 on the file of the second respondent and quash the same.



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For petitioner

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Mr.M.Chidambaram

For respondents

...

Mr.S.V.Karthikeyan
for R.1

For R. 2- Labour Court

ORDER

This writ petition is filed to quash the order dated 7/8/2013 passed by the second respondent in I.D.No.318 of 2006.

2. The case of the petitioner is that the petitioner Management appointed the first respondent on 8/8/1983 in Madurai Depot, as a Driver. On 7/5/2007, he drove the vehicle under the influence of alcohol, thereby, he could not complete the trip. Hence he was issued with a charge memo on 17/5/2000 and explanations were submitted by the first respondent on 13/6/2000 and also on 12/1/2001. Not satisfied with the explanations of the first respondent, domestic enquiry was conducted, wherein the charges levelled against him were present. Show cause notice was sent to the first respondent, for which he has submitted. Having not satisfied, the petitioner Management terminated the first respondent on 17/3/2001, from service, with the explanation.



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3. After the termination, first respondent has approached the State Administrative Tribunal and filed O.A.No.3747 of 2001, questioning the termination orders. As per the order, dated 6/3/2002, the State Administrative Tribunal directed the first respondent to approach the Labour Court. He raised an Industrial Dispute in I.D.No.318 of 2006 and in the meantime, first respondent has attained the age of superannuation. Respondent No.2/Labour Court has passed the Award, directing the petitioner Management to pay 50% of the backwages from 17/3/2011 till the date of superannuation. Aggrieved by the same, the petitioner Management has come forward with the instant writ petition.

4. Heard Mr.M.Chidambaram, learned counsel for the petitioner Management and Mr.S.V.Karthikeyan, learned counsel for the first respondent.

5. The learned counsel appearing for the petitioner Corporation submitted that the first respondent who was driving the vehicle from Usilampatti to Mattuthavani in Madurai District was expected to cover the area within a specific period of two hours. However, he has taken



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four hours to drive the said distance. The passengers in the bus made a complaint to the authorities that the first respondent is in a drunken condition, thereby he could not drive the vehicle. Subsequently, driver was changed and passengers were transported to their destinations. Basing on the complaint, the first respondent was suspended and enquiry has been initiated. After charges were proved, first respondent was removed from service.

6. The learned counsel appearing for the first respondent submitted that Enquiry Officer has not perused the evidence in a proper manner and submitted a report in favour of the Management which is totally perverse. So, the report of the Enquiry Officer is liable to be set aside.

7. Perused the materials available on record.

8. On hearing both sides, this Court is of the opinion that all the impugned proceedings of the petitioner Management are required to be set aside in total for the following reasons:-



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(i). There is no dispute that the first respondent was the driver of the route from Usilampatti to Mattuthavani in Madurai District and he has driven the vehicle more than the time prescribed. The complaint was received against the first respondent by the passengers that he was in a drunken condition. However, the petitioner Management has not chosen to send him for medical examination to test whether he was in drunken stage at the time of driving. At least, he was not put to Breath Analyser Test to see whether he was in drunken condition. If so, what is the percentage of alcohol in the blood of the first respondent. No medical certificate was produced before the Enquiry Officer or before the Labour Court.

(ii). It was brought in record before the labour Court during the course of enquiry that after receiving the complaint against the first respondent, another Driver was entrusted to do the job of driving to rest of the destination. However, the said driver also could not drive the vehicle and he has complained that there is some mechanical defect in the bus, viz., power steering is not working properly. The additional driver who was entrusted with the duty of taking the vehicle has refused



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to drive the vehicle, thereby, an another vehicle, was arranged in which the passengers were shifted to their respective destinations. That means, the first respondent could not complete the target not because of his alleged drunken stage, but due to mechanical defect. The respondent has not subjected the vehicle to show that there was no mechanical defect. Once there is no material that the first respondent was in drunken condition and once there is a material that the bus, who was driven by the first respondent was in mechanical defect, the petitioner Management cannot be found fault for the delay in reaching Madurai.

9. In view of the above, this Court is of the considered opinion that the award passed by the labour Court is with sound reasoing and not perverse hence needs no interfrencce.

10. In the result, this writ petition is dismissed. No costs.

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Index: Yes/No

Neutral Citation: Yes/No



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Dr.D.NAGARJUN,J

mvs.

Pre-delivery order in
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