



W.P.No.34550 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2023

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.34550 of 2014
and M.P.No.1 of 2014

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
No.12, Ramakrishna Road,
Salem-07,
represented by the General Manager,

... Petitioner

-Vs-

1. The Presiding Officer,
Labour Court,
Salem.

2. K.Rathinam,
The General Secretary,
Anaithu Thozhilalar Urimai Padhukappu Sangam,
Reg.No.1260, SLM,
No.18/63, Thai Veedu,
Old Market, Mettur Dam-1,
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, calling for records in proceeding pursuant to the order passed in Industrial Dispute petition I.D.No.54 of 2010 dated 25.07.2013 on the file of the first respondent and quash the same.



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For Petitioner : Mr.R.Babu
For Respondents
R1 : Court
R2 : Mr.R.M.D.Nasrullah
for Mr.K.V.Shanmuganathan

ORDER

This Writ Petition has been filed challenging the award passed by the first respondent in ID No.54 of 2010 dated 25.07.2013, thereby set aside the punishment imposed by the petitioner.

2. Heard the learned counsel for the petitioner and the learned counsel for the second respondent and perused the materials available on record.

3. The second respondent was employed as a Conductor in the petitioner's Corporation, on 06.05.1987. He was continuously absent for duty unauthorizedly, without any prior permission from 23.07.2002 to 09.02.2003. Therefore, the second respondent was served with a notice to appear before the medical board. After receipt of the said notice, the second respondent failed to appear before the medical board and he also did not produce any original Medical Certificate before the petitioner. Therefore, the continuous absence in terms of 19(1)(F) of the Certified Standing Order of Corporation, unauthorized



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absence is a grave misconduct. Therefore, the petitioner issued a charge memo dated 16.10.2002. The second respondent also submitted his explanation dated 30.11.2002. In the meantime, the second respondent was allowed to join duty, with effect from 10.02.2003. Without satisfying the explanation submitted by the second respondent, a domestic enquiry was ordered and the Enquiry Officer concluded that the charges were proved and passed a final order of postponement of annual increment for two years with cumulative effect by an order dated 30.05.2006. Aggrieved by the same, the second respondent raised an industrial dispute.

4. The learned counsel for the petitioner would submit that the second respondent was continuously absent for duty without prior permission on several occasions. He absented himself from attending the duty from 23.07.2002 to 09.02.2003 continuously for 202 days. The second respondent also failed to appear before the Medical Board. Therefore, he violated the standing order as contemplated under the 19(1) (F) of Certified Standing Order of Corporation. However, without considering the same, the first respondent had set aside the order of punishment.



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5. A perusal of the records revealed that the management failed to produce the Medical Certificate before the Medical Board, which was submitted by the second respondent. Therefore, the claimant was not examined by the Medical Board. Further, the petition dated 03.09.2002 submitted by the second respondent was not produced before the Labour Court. Therefore, there is no reason to disbelieve the Medical Certificates produced by the second respondent. Therefore, the first respondent had rightly concluded that the second respondent was not absented for his duty wantonly and willfully and set aside the punishment imposed by the petitioner. Further, now, the second respondent had retired from service on 03.05.2012.

6. Therefore, this Court finds no infirmity or illegality in the order passed by the first respondent and this writ petition is devoid of merits and is liable to be dismissed. The petitioner is directed to settle all the monetary benefits to the second respondent and also the arrears of increment shall be settled to the second respondent, within a period of twelve weeks from the date of receipt of a copy of this order.



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WEB COPY 7. Accordingly, this writ petition is dismissed. Consequently, connected

Miscellaneous petition is closed. No costs.

20.07.2023

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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WEB COPY



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G.K.ILANTHIRAIYAN, J.

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To

The Presiding Officer,
Labour Court,
Salem.

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