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W.A. No. 2157 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No. 2157 of 2023

P. Periasamy

Appellant

v

1 The Management
Tamil Nadu State Transport Corporation
(Villupuram) Limited
Villupuram

2 The Presiding Officer
Labour Court
Cuddalore

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging
the order dated 09.06.2023 passed in W.P. No.10696 of 2013.

For appellant

Mr. R. Muralidharan

For R1

Mr. M. Aswin
Standing Counsel

R2

Court



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JUDGMENT

(delivered by S.Vaidyanathan, J.)

This writ appeal is directed against the order dated 09.06.2023 passed by a Single Bench of this Court in W.P.No.10696 of 2013.

2 For the sake of convenience, the appellant, the first respondent and the second respondent will be adverted to as the workman, the Corporation and the Labour Court, respectively.

3 The facts in brief leading to the filing of this writ appeal are as under:

3.1 The workman, who was working as a Conductor in the Corporation, was suspended from service on 24.02.2001 for the charge of misappropriation to the tune of Rs.14.23 lakhs by not remitting the collection amounts. Thereafter, after issuance of charge memo dated 21.06.2001 and conduct of domestic enquiry, in which, the charges were held to be proved, he was eventually removed from service on 27.07.2002.



W.A. No. 2157 of 2023

3.2 Thereagainst, the workman filed an industrial dispute being I.D.No.66 of 2003 before the Labour Court under Section 2-A(2) of the Industrial Disputes Act, 1947, seeking reinstatement with continuity of service, backwages and other attendant benefits.

3.3 The Labour Court, on consideration of the evidence on record and hearing either side, *vide* award dated 27.01.2011, finding that the materials against the workman are aplenty and that the workman had even committed an act of forgery in the course of misappropriation, by affixing the signature of the driver in the trip sheets and also other officers, dismissed the industrial dispute.

3.4 Aggrieved, the workman filed a writ petition being W.P.No.10696 of 2013. The Single Bench, *vide* order dated 09.06.2023, finding *inter alia* that the domestic enquiry was conducted in a fair and proper manner, the workman had forged the signatures of as many as eight officers and there are overwhelming materials to prove the misconduct of the workman, upheld the award of the Labour Court and dismissed the writ petition filed by the workman.



W.A. No. 2157 of 2023

WEB COPY

3.5 Calling into question the legality and validity of the order passed by the Single Bench, the workman has preferred this writ appeal.

4 Heard Mr. R. Muralidharan, learned counsel for the workman and Mr. M. Aswin, learned Standing Counsel for the Corporation.

5 The main ground of attack of the learned counsel for the workman, before the Single Bench, as well before this Court, is that the officer who had issued the charge memo dated 21.06.2001 and the officer who had passed the removal order dated 27.07.2002, is one and the same, viz., Vasudeven, General Manager (Operations) and this vitiates the disciplinary proceedings. His other contention is that both the Labour Court and the Single Bench failed to advert to the charges framed against the other employees who were actually responsible for the misappropriation in question.

6 As regards the first contention of the learned counsel for the workman that the officer issuing the charge memo and the removal order cannot be one and the same person, we are afraid, the same cannot be



W.A. No. 2157 of 2023

countenanced. Even assuming for a moment that the said argument is correct, the Labour Court is not bereft of powers to come to a different conclusion. When the entire materials are placed before the Labour Court, the Labour Court has got enormous powers to come to a different conclusion on the basis of the facts obtaining in the case, gravity of misconduct and the punishment that can be imposed on the workman, which, the Labour Court, in the case on hand, has not chosen to do. After a threadbare analysis of the evidence on record, the Labour Court has thought it fit to confirm the order of removal. Further, be it noted, the powers of the Labour Court are much wider than the powers of the Civil Court. The Labour Court is empowered to create a new contract, which the Civil Court cannot. In the instant case, the Labour Court, by relying upon the evidence tendered in the domestic enquiry which were marked as exhibits, has held that the domestic enquiry was conducted in a fair and proper manner and that the workman had misappropriated a whopping sum of Rs.14.23 lakhs, which is a finding of fact.

7 At this juncture, it is worth referring to the judgment of the Supreme Court in **Syed Yakoob v K.S. Radhakrishnan** [AIR 1964 SC 477], wherein, it was held that even if there is any grave defect in the fact,



W.A. No. 2157 of 2023

that will not give rise to issue a writ of certiorari to interfere with the award of the Labour Court, as it cannot be issued as a matter of routine.

8 As regards the second contention of the learned counsel for the workman, in the considered opinion of this Court, the Labour Court, by proper marshalling and appreciation of evidence, has given a categorical finding of fact that the workman is guilty of misconduct, which, once again, cannot be interfered with, in the light of **Syed Yakoob**, *supra*.

In view of the above discussion, the order passed by the Single Bench upholding the award of the Labour Court, is confirmed and as a sequel, this writ appeal fails and is accordingly dismissed, however, sans costs.

(S.V.N.J.) (K.R.S.J.)
17.08.2023

cad



W.A. No. 2157 of 2023

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W.A. No. 2157 of 2023

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