



W.P.No.24818 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.24818 of 2019 and
W.M.P.No.24443 of 2019

The Management,
Tamil Nadu State Transport Corporation Limited,
Bharathipuram,
Dharmapuri -5.

... Petitioner

Vs.

K.Prabakaran

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, calling for records pertaining to the Orders, dated 11.10.2018 in I.D.No.89 of 2013 passed by the Presiding Officer, Labour Court, Salem and quash the same.

For Petitioner : Mr.R.Babu

For Respondents : No appearance

ORDER

The respondent/Workman was working as a driver in the Writ petitioner Tamil Nadu state Transport Corporation, Dharmapuri. On



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03.12.2011, he was directed to drive the bus on Hosur to Tiruvannamalai route. According to the respondent, he applied leave and handed over the key of the bus to another driver. However, on 07.12.2011, it was brought to the knowledge of the Writ Petitioner / Management that the respondent drove the bus on 03.12.2011 in an inebriated condition. Thereafter, a show cause notice was issued to him by the Management and a domestic enquiry was conducted. The respondent did not participate in the enquiry proceedings and therefore he was set exparte.

2. The Enquiry Officer in his report dated 19.03.2012 held that the charges against the respondent are proved. Subsequently, a 2nd show cause notice was issued to him and he was removed from service with effect from 26.10.2012 and the matter was referred to conciliation. Since the conciliation failed, the respondent raised an Industrial Dispute before the Labour Court, Salem under Section 2A (2) of the Industrial Disputes Act. In the Labour Court, it was contended by the respondent/workman that he was not given fair opportunity in the domestic enquiry even though he sought for an adjournment on the first date of hearing. It was



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his further contention that he never drove the bus after consuming alcohol. The present Writ Petitioner filed a detailed counter. The Labour Court after analyzing the evidence on record, concluded that the Management did not adduce any acceptable evidence to show that the respondent Workman drove the vehicle in an inebriated condition. Further, the Labour Court observed that though the respondent attained the age of superannuation on 31.03.2015, directed the petitioner/Management to pay backwages and other benefits till the date of superannuation and other pensionary benefits with interest @ 6% per annum thereafter. Aggrieved over the same, the present Writ Petition is filed.

3. Mr.R.Babu, learned counsel for the petitioner/Management contended that the respondent was dismissed from service on 26.10.2012. It is also his contention that the respondent workman was punished 89 times for similar misconduct and the same has been mentioned in the order of dismissal itself. He would therefore contend that the Award passed by the Labour Court cannot be sustained.



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4. Though notice was served and the name of the respondent is also printed in the cause list, there is no representation for the respondent.

5. It is seen from the record that though it is contended by the Writ Petitioner that the respondent drove the vehicle when he was drunk, the same has not been proved. The Officials who were examined on the side of the Management had clearly deposed before the Labour Court that the respondent was not medically examined on 03.12.2011. More over, the respondent was set exparte on the first hearing date itself, even though he sought for an adjournment. The Labour Court after carefully perusing the evidence adduced on the side of the Management, came to the conclusion that the charges framed against the respondent were not proved. Since this is a factual finding and there is no perversity, this Court cannot invoke the provisions of Article 226 of the Constitution of India.

6. The contention of the learned counsel for the petitioner that



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the respondent was given punishment for similar kind of mis-conduct for 89 times, has not been substantiated. In fact, no documentary evidence in this regard was produced before the Labour Court. The counsel for the Writ Petitioner merely relied on the Order of dismissal in which it is stated that the respondent was punished 89 times for similar misconduct. The evidence on record clearly shows that the domestic enquiry was not conducted properly and the respondent was not also examined medically.

7. In the circumstances, I do not see any reason to interfere with the Orders, dated 11.10.2018 passed by the Labour Court, Salem in I.D.No.89/2013. Accordingly, the Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-Speaking order
vum

To
The Labour Court, Salem.

R. HEMALATHA, J.



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