



W.P.No.8277 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.8277 of 2017

And

W.M.P.No.9068 of 2017

The Managing Director
Tamilnadu State Transport Corporation
(CBE) Ltd.,
Sennimalai Road,
Erode – 1.

... Petitioner

Vs.

- 1.The Presiding Officer
Labour Court,
Salem.
- 2.The General Secretary,
Salem Mandala Annaithu
Panniyalar Sangam

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the order passed by the first respondent in ID No.55 of 2006 dated 25.02.2015 and to quash the same as illegal.

For Petitioner : Mr.Murali Vinoth
for M/s.P.Paramasivadosh
For Respondents : R1 – Court
Mr.C.Prakasam for R2



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the order passed by the first respondent in ID No.55 of 2006 dated 25.02.2015 and to quash the same as illegal.

2.The learned counsel appearing for the petitioner submitted that the petitioner Management issued charge memo dated 26.07.1997 to one workman for his un-authorized absence from 01.07.1997 to 04.11.1998. The workman submitted his reply stating that he was suffering from serious illness. The petitioner Management referred the workman for medical examination before the medical board, however, the workman did not adhere to the said direction. Thereafter, enquiry was conducted and after issuing second show cause notice dated 17.01.1998, the workman was imposed with punishment of reduction of pay by two stages and his basic and grade pay was reduced from 2220 + 9.00 SBPA to 2170 + 9.00 SBPA by order dated 04.11.1998 with effect from 01.11.1998 along with substantive punishment of treating the period of absence as 'absent'.

3.The learned counsel appearing for the petitioner further



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submitted that the second respondent being a union raised industrial dispute under Section 2 – K of the Industrial Disputes Act before the first respondent seeking to set aside the order dated 04.11.1998 and to treat the period of absence from 16.05.1998 to 31.05.1999 as duty period and the first respondent passed award allowing the claim of the second respondent, which is not sustainable one.

4.The learned counsel appearing for the second respondent submitted that due to illness, the workman was absent from duty, for which he produced medical records before the petitioner Management, however, the petitioner Management conducted domestic enquiry and the Enquiry Officer drawn proven minute as against the workman and based on the enquiry report, the petitioner issued second show cause notice to the workman and imposed the punishment of reduction of pay by two stages and his basic and grade pay was reduced from 2220 + 9.00 SBPA to 2170 + 9.00 SBPA by order dated 04.11.1998 with effect from 01.11.1998 along with substantive punishment of treating the absent period as 'absent'.

5.The learned counsel appearing for the second respondent further submitted that the petitioner Management is entitled to impose



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only one punishment and they are not entitled to impose two punishment for un-authorised absence. The Labour Court considered all the factual aspects and thereafter passed award allowing the claim of the second respondent, which does not suffer perversity and warrants no interference.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, the petitioner the petitioner Management issued charge memo dated 26.07.1997 to one workman for his un-authorized absence from 01.07.1997 to 04.11.1998. The workman submitted his reply stating that he was suffering from serious illness. The petitioner Management specifically pleaded before the first respondent that they referred the workman for medical examination before the medical board, however, the workman did not appear before the medical board.

8.It is the duty caste upon the workman to appear before the medical board inorder to ascertain his illness, however, the workman did not appear before the medical board and this itself is sufficient to



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prove the mis-conduct of the workman. Hence, the impugned order warrants interference.

9.However, the petitioner Management has imposed two punishments for un-authorized absence, which is not sustainable one. Hence, this Court directs that the punishment of reduction of pay by two stages is admissible, however, reducing the basic and grade pay from 2220 + 9.00 SBPA to 2170 + 9.00 SBPA is not admissible and the same is set aside. Further, the period of absence from 01.07.1997 to 04.11.1998 shall be treated as 'absent'.

10.With the above directions, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

07.08.2023

pri
Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Presiding Officer
Labour Court,
Salem.

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