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W.P.No.8278 of 2017
W.M.P.No.9069 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.06.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.8278 of 2017 &
W.M.P.No.9069 of 2017

The Management
rep. By its Managing Director,
Tamilnadu State Transport Corporation,
(Coimbatore) Ltd.,
Chennimalai Road,
Erode

... Petitioner

Vs.

1. Tamilnadu State Transport Corporation
Employees Union,
Rep. By its General Secretary,
CITU Office,1, Kumarasamy Street,
Erode – 1

2. The Presiding Officer,
Labour Court,
Salem

...Respondent

Writ Petition is filed under Article 226 of Constitution of India for
issuance of a Writ of Certiorari to call for the records of the order passed
by the 2nd respondent in I.D.No.61 of 2013 dated 30.03.2016 and quash the



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same as illegal.

For Petitioner : Mr.M.Murali Vinodh
Standing Counsel

For Respondents : Mrs.V.Porkodi for
Mrs.V.Ajay Khose for R1

ORDER

The present Writ Petition has been filed to call for the records of the order passed by the 2nd respondent in I.D.No.61 of 2013 dated 30.03.2016 and quash the same as illegal.

2. The brief facts of the case are as follows:-

(i) The said I.D.No.61 of 2013 was raised by the 1st respondent/ Union under Section 2(K) of the Industrial Disputes Act, 1947, seeking for the grant of 5 review benefits to its member, Workman, A.Krishnasamy, [hereinafter referred to as 'Workman'] in the nature of 6+7+8+8+3 in the place of review benefits granted to him in the nature of 6+8+10, as per the review benefits found eligible and as per Rules applicable hitherto.

(ii) The workman joined the service as a conductor in the petitioner / Management on 16.12.1976 and he was removed from service on account



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of certain charges on 08.08.1982 and reinstated as a fresh entrant on 10.05.1985. The petitioner offered the review benefits in the spell of his service, however, suppressing the same, the industrial dispute was raised by the 1st respondent. The petitioner / management filed a detailed counter refuting the claim that there was dismissal of the workman at his initial stage of his service and he was reinstated only as a fresh entrant in pursuance of the settlement entered as under 18(1) of the Industrial Dispute Act, 1947. The petitioner has also urged the details of the punishment imposed on the workman and the orders of punishment dated 22.03.1995, 07.09.1995, 20.06.1997 and 31.12.1997 and the order of his reinstatement into service based on 18(1) settlement were marked as M.Exs.1 to 5. The petitioner / Management computably set out the details of punishments and reinstatement of the workman into service as a fresh entrant and the same was not modified till date by any court of law and the same holds the field of its operation. The said facts were discarded from consideration by the 2nd respondent on the ground that the entire files regarding the punishment was not marked, which was unnecessary in the facts of the present case. Taking such a unsustainable ground, the 2nd respondent has allowed the dispute in I.D.No.61 of 2013 dated 30.03.2016. As against the same, the



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petitioner / Management has preferred this petition.

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3. The learned counsel for the 1st respondent submits that the order passed by the learned Authority is correct and the same does not require any interference from this Court, thereby pleaded to dismiss the petition.

4. Heard the learned counsel on either side and perused the documents placed on record.

5. It is settled legal principle that the scope of interference in the award of the labour court is limited. This Court exercising jurisdiction under Article 226 of the Constitution of India, cannot examine the impugned award as if this is the 2nd appellate court over the award of the labour court. The petitioner/management in order to succeed has to substantiate that the award is perverse, that the findings rendered by the labour court were not substantiated by evidence and no reasonable person would come to such conclusion on the available facts. The Management heavily relied upon the details of punishment and the order of reinstatement into service based on the 18(1) Settlement, which were marked as M.Exs.1 to 5, however, the



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same was not modified, therefore, stated that the order passed by the Labour Court needs interference.

6. Unfortunately, no such documents were placed before the Labour court and finding has been rendered by the labour court in Paragraph 7 of the award stating that only the documents relating to the punishment / disciplinary proceedings, 22.03.1995, 07.09.1995, 20.06.1997 and 31.12.1997 were marked as exhibits Exs.M.1 to M.5 and no documents with regard to disciplinary proceedings initiated on ineligible working days from the date of joining 16.12.1976 till the proceedings dated 22.03.1995 and the punishment awarded therein, were produced by the management to prove that the case of the petitioner / management. In such circumstances, it cannot be stated that the Labour Court did not consider the documentary evidence produced before it.

7. As noticed above, Exhibits M.2 to M.5 are all pertaining to disciplinary proceedings initiated against the workman. The management did not lead any oral evidence nor produced any document regarding the disciplinary proceedings and punishment awarded from the date of



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appointment 16.12.1976 till 22.03.1995, Ex.M.2. Further, the petitioner / management has not taken steps to re-open the case or file any documents to substantiate their case. In such circumstances, the award passed by the labour court cannot be held to be perverse. As regards exercise of discretion power by the labour court by invoking Section 2(K) of the Industrial Disputes Act, it is seen that the labour court has assigned reasons to support its conclusion. The petitioner/management is not been able to show that the exercise of discretion by the labour court was erroneous or illegal. The labour court has granted 5 review benefits to the workman. In such circumstances, the exercise of discretion by the labour court cannot be faulted.

In view of the above, the petitioner has not made out a case for interference and the Writ Petition fails and the same is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order

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V.BHAVANI SUBBAROYAN, J.,

ssd

To

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Rep. By its General Secretary,
CITU Office, 1, Kumarasamy Street,
Erode – 1
2. The Presiding Officer,
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