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W.A.No.219 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MS.JUSTICE L.VICTORIA GOWRI

W.A.No.219 of 2023 and
C.M.P.No.2238 of 2023

The Management
Tamilnadu State Transport Corporation
Villupuram Limited,
Represented by General Manager,
Cuddalore

.. Appellant

-VS-

S.Ramados

.. Respondent

Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order of
the learned Single Judge dated 06.12.2021 in W.P.No.35744 of 2019

For Appellant : Ms.S.Pavithra

For Respondent : Mr.S.Venkatasamy



W.A.No.218 of 2021

J U D G M E N T

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This Writ Appeal has been preferred against the order of the learned Single Judge dated 06.12.2021 made in W.P.No.35744 of 2019, in dismissing the Writ Petition filed by the Appellant/Management.

2. The case of the Appellant/Transport Corporation is that the Respondent was engaged as a Driver in the Appellant/Transport Corporation and he was frequently absenting himself from work. Since the Respondent/Workman had remained absent between 02.03.2012 and 18.08.2012 without any intimation, a Charge Memo was issued to him and an enquiry was conducted and thereafter, he was dismissed from service on 16.12.2013 by following the principles of natural justice. Subsequently, the Workman raised an Industrial Dispute before the Labour Court in I.D.No.14 of 2016 and the Labour Court vide Award dated 12.10.2017 held that the punishment of dismissal from service was disproportionate to the charges and accordingly reduced the punishment to "stoppage of increment for a period of two years with cumulative effect" together with 50% of the back wages. Challenging the same, the Appellant filed a Writ Petition in W.P.No.35744 of 2019 and the learned Single Judge vide order dated 06.12.2021, dismissed the Writ Petition, challenging which, the present Writ Appeal



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has been filed.

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3. The main contention of the Appellant/Management is that when the domestic enquiry is held to be fair, the Labour Court ought not to have interfered with the punishment more so, when the workman is a habitual absentee. That apart having found the departmental action initiated by the Appellant/Management is just and proper, the Labour Court has erroneously interfered with the punishment imposed on the Workman.

4. Heard both sides. Perused the records.

5. The learned Single Judge has relied upon a judgment of Hon'ble Supreme Court in the case of ***Krushnakant B. Parmar Vs. Union of India & Another*** reported in ***2002 (2) SLJ 19*** and another judgment of the Hon'ble Supreme Court in the case of ***Charanjit Lamba Vs. Commanding Officer, Army Southern Command and others*** ***2020 (11) SCC 314***, wherein, the Apex Court has held that, in cases where the punishment is so disproportionate to the gravity of the charges and that no reasonable person is placed in the position of the disciplinary authority could have imposed the punishment, the Writ Court would be justified in interfering with the same. The



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learned single Judge by taking note of the aforesaid judgments and also by observing that since the Respondent-Workman had put in service from 01.09.2005 onwards dismissed the Writ Petition, as no interference is required to the impugned award of the Labour Court.

6. Admittedly, the Workman joined the services of the Appellant/Transport Corporation in the year 2005 and continued in service till 2012. Thereafter, he was dismissed from service in the year 2013. He had several past records, out of which, some of the charges have been proved. The Workman has not disputed the fact that during the entire period of service, he has absented himself for 1473 days, for which the employer has dismissed him from service.

7. Taking note of the fact that the Respondent herein has got past records and the fact that the Workman has also admitted that due to his health condition, he has absented himself from duty for 1473 days, we are of the view that the order of the learned Single Judge in upholding the award of the Labour Court is premature and hence the same needs to be set aside.

8. Accordingly, the order dated 06.12.2021 passed by the learned Single Judge in



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W.P.No.35744 of 2019 and the Award dated 12.10.2017 passed by the Labour Court are set aside.

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9. In the result, this Writ Appeal is allowed. We make it clear that for the actual service rendered by the Respondent/Workman, the benefits that are eligible to him shall be extended and the Provident Fund contribution that has been remitted on his behalf shall be paid to the Workman along with Employer's contribution, Also, the eligible pension with respect to the said P.F. contribution shall be paid to the Respondent/Workman. The aforesaid monetary benefits shall be extended to the Respondent/Workman within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.V.N., J.] [L.V.G., J]
07.02.2023

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S. VAIDYANATHAN,J.,
and
L.VICTORIA GOWRI.,J

arr

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