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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.08.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.28721 of 2017

P.Saravanan ... Petitioner

Vs.

1.The Managing Director
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Cuddalore Division Officer,
Cuddalore.

2.The Presiding Officer,
Labour Court,
Cuddalore. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the entire records relating to the order passed by the second respondent in I.D.No.9 of 2016, dated 31.07.2017 and quash the same and thereby allow this writ petition by reinstating the petitioner in service.

For Petitioner : Mr.R.Muralidharan
For Respondents : Mr.M.Aswin for R1
R2 – Labour Court

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O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the order passed by the second respondent in I.D.No.9 of 2016, dated 31.07.2017 and to quash the same.

2.The case of the petitioner is that the petitioner was employed as Conductor in the first respondent Corporation from 21.12.2009. On 07.05.2015 when the petitioner was in service at Sirupakkam Cross Road, the Checking Inspectors of the first respondent Corporation came and inspected. Thereafter on the allegations that the petitioner has not issued tickets to three passengers and Rs.185/- has been found as excess amount in the cash box, the petitioner was issued with charge memo and domestic enquiry was conducted and thereafter, the petitioner was dismissed from service vide order dated 31.07.2015. Thereafter the petitioner raised industrial dispute in I.D.No.9 of 2016 before the second respondent and the second respondent vide order dated 31.07.2017 dismissed the industrial dispute. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted that the petitioner continuously worked in the bus on 07.05.2015

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without any break or sleep and taking advantage of his giddiness, three passengers cheated the petitioner by making false statement to the Checking Inspectors that they have paid the amount, however, the petitioner has not issued tickets. Believing their words, the petitioner was issued with charge memo and after domestic enquiry, was dismissed from service. However, the said three passengers were not examined either before Enquiry Officer or before Labour Court. Hence, the impugned order is perverse and liable to be set aside. In support of his contentions, the learned counsel relied upon the decision of the Hon'ble Apex Court reported in AIR 2017 Supreme Court 57 (Jorsingh Govind Vanjari Vs. Divisional Controller Maharashtra State Road Transport Corporation).

4.The learned counsel appearing for the first respondent submitted that during domestic enquiry, the petitioner himself admitted that a sum of Rs.185/- was found as excess amount in the cash box due to work pressure, he did not issue tickets to three passengers. When the petitioner himself admits the allegations, there is no need to prove the same either before the Enquiry Officer or before the Labour Court. The learned counsel further submitted that the petitioner has already suffered 19 punishments for

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misappropriation. Considering all the factual aspects, the Labour Court rightly rejected the industrial dispute raised by the petitioner which warrants no interference.

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

6.The facts in the present case is not in dispute. Admittedly, the petitioner was employed as Conductor in the first respondent Corporation from 21.12.2009. Thereafter on the allegations that the petitioner has not issued tickets to three passengers and Rs.185/- has been found as excess amount in the cash box, he was issued with charge memo and domestic enquiry was conducted and thereafter, the petitioner was dismissed from service vide order dated 31.07.2015. Thereafter the petitioner raised industrial dispute in I.D.No.9 of 2016 before the second respondent and the second respondent vide order dated 31.07.2017 dismissed the industrial dispute.

7.This Court perused the decision of the Hon'ble Apex Court reported in AIR 2017 Supreme Court 57 (Jorsingh Govind Vanjari Vs. Divisional Controller Maharashtra State Road Transport Corporation)

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relied upon by the learned counsel appearing for the petitioner. In the said case, the employee specifically denied the allegation made against him and hence, it is for the employer therein to prove the guilt. However, in the present case, the petitioner himself admitted the guilt before the Enquiry Officer and during the cross examination and the same were marked as Ex.M3 and Ex.M5 before the Labour Court by the first respondent. Hence, the decision of the Hon'ble Apex Court reported in AIR 2017 Supreme Court 57 (Jorsingh Govind Vanjari Vs. Divisional Controller Maharashtra State Road Transport Corporation) is not applicable to the present case on hand.

8.Further, the petitioner has already suffered 19 punishments for misappropriation. Hence, this Court does not find any perversity in the impugned order and is not inclined to interfere with the same.

9.The writ petition is accordingly dismissed. No costs.

22.08.2023

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

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M.DHANDAPANI,J.
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To

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(Villupuram) Limited,
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2.The Presiding Officer,
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