



W.P.No.3038 of 2019
and W.M.P.Nos.3300 & 12770 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE R. HEMALATHA

W.P.No.3038 of 2019

and

W.M.P.Nos.3300 & 12770 of 2019

The Management,
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore Division-I) Mettupalayam Road,
Coimbatore – 614 043.

... Petitioner

Vs.

S.Subramaniam

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to Award in I.D.No.200/2006 dated 28.09.2017 on the file of the Labour Court, Coimbatore and quash the same.

For Petitioner : Mr.M.Arun
for Mr.A.Sundaravadhanam
For Respondent : Ms.Meera Gnanasekar



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ORDER

Challenging the Award dated 28.09.2017 in I.D.No.200/2006 passed by the Presiding Officer, Labour Court, Coimbatore, the present writ petition is filed.

2.The respondent was initially working as a Conductor and thereafter, he was promoted to the post of Clerk. The respondent in the year 2002 worked as a cashier in Branch-I at Pollachi. The Audit Officers found that there was a shortage of cash of Rs.1,20,000/- in Rs.10/- denominations as per the records maintained by the respondent. This was detected on 06.12.2002 & 07.12.2002. Since the respondent was on leave, the locker in which the respondent used to keep the cash was sealed. On 09.12.2002, it was confirmed that there was shortage of Rs.1,20,000/- in Rs.10/- denominations. Thereafter, a charge memo was issued to the respondent for which he submitted his reply. The respondent admitted the charges and he did not also choose to cross examine the witnesses presented by the Management. In the meanwhile, the son of the respondent paid a sum of Rs.1,20,000/- in the presence of



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the witnesses. The Enquiry Officer in his report dated 08.01.2003 held that all the charges against the respondent were proved. Thereafter, he was dismissed from service.

3.The respondent raised an Industrial Dispute in I.D.No.200/2006 before the Labour Court, Coimbatore under Section 2A(2) of the Industrial Disputes Act, 1947. The main contention of the respondent was that he had not misappropriated the funds as alleged by the Management and submitted that the amount of Rs.1,20,000/- was lost during the disbursement of salaries to the employees. It was also his contention that since his son paid the entire amount of Rs.1,20,000/- there was no loss to the Government and therefore, the order of dismissal passed by the Management is erroneous.

4.The Labour Court, Coimbatore after considering the oral and documentary evidence adduced on both sides held that since the respondent had paid a sum of Rs.1,20,000/-, there is no loss to the Government and that he had also completed 28 years of service and



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therefore, directed the Management to pay a sum of Rs.2,50,000/- towards compensation to the respondent in lieu of reinstatement and backwages.

5.Mr.M.Arun, learned counsel appearing for the writ petitioner contended that since the respondent had admitted the charges and the domestic enquiry was also properly conducted against the respondent, the Award passed by the Labour Court directing the Management to pay a sum of Rs.2,50,000/- towards compensation in lieu of reinstatement and backwages is totally erroneous and perverse. It is also his contention that on an earlier occasion also, the respondent was charged for misappropriation of funds of Rs.10,000/- and was punished for the same.

6.Per contra, Ms.Meera Gnanasekar, learned counsel appearing for the respondent would contend that the respondent had not admitted the charges framed against him and that having paid a sum of Rs.1,20,000/-, there is no loss to the Government. It is further contended that the Presiding Officer, Labour Court, Coimbatore had awarded only a



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sum of Rs.2,50,000/- in lieu of reinstatement and payment of backwages.

Therefore, the same need not be interfered by this Court.

7.It is seen from the records that in the domestic enquiry, the present respondent had clearly admitted the charges and this is mentioned in the enquiry report also. When there is a deficit of Rs.1,20,000/-, the respondent did not bring it to the notice of his higher officials immediately. If he had really lost the amount, he would have brought it to the knowledge of his higher officials. On the contrary, he was keeping quiet till the audit was conducted by the concerned officials. In fact, the respondent has gone on leave on 06.12.2002 & 07.12.2002 when the Audit Officers were in the office and therefore, the locker was sealed. When it was opened by the Audit officers on 09.12.2002 in his presence there was a deficit of sum of Rs.1,20,000/. This clearly would go to show that the respondent had misappropriated funds and by merely paying it back, he cannot be exonerated. When the Labour Court had come to a conclusion that the charges have been proved against the respondent, it should not have awarded a sum of Rs.2,50,000/- as compensation in lieu



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of reinstatement and backwages to the respondent. In these circumstances, the orders passed by the Labour Court, Coimbatore is set aside.

8. In the result, this Writ Petition is allowed. The orders dated 28.09.2017 in I.D.No.200/2006 passed by the Labour Court, Coimbatore, is set aside. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
mtl

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