



W.P.(MD)No.10240 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.01.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.10240 of 2020

The General Secretary,
Nellai, Chidambaranar, Kumari District,
State Transport Corporation Employees Union,
Registered No.468/TILI,
No.4C, Inertial Compound (Upstaris),
Perachiamman Kovil Road,
Vannarapettai,
Tirunelveli-3.

... Petitioner

Vs.

1.The Presiding Officer,
The Labour Court,
Tirunelveli.

2.The Management,
Tamil Nadu State Transport Corporation Ltd.,
Tirunelveli Ltd.,
Tirunelveli Region,
Tirunelveli.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned award in I.D.No.88 of 2017 passed by the first respondent, dated



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28.02.2020 and quash the same.

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For Petitioner : Mr.K.Guhan
For R2 : Mr.R.Rajamohan

ORDER

This writ petition has been filed challenging the impugned award passed by the first respondent in I.D.No.88 of 2017, dated 28.02.2020 and to quash the same.

2. The case of the petitioner is that the petitioner is the General Secretary of the Employees Union. One Mr.M.Suresh Subramanian was working as a Driver in the second respondent Corporation. He was suffering from ill-health and hence, he has submitted a medical certificate before the concerned authority seeking medical leave. The second respondent has conducted departmental enquiry and imposed the punishment of one year increment cut with cumulative effect. Challenging the same, the petitioner Union has raised an industrial dispute before the Labour Court in I.D.No.88 of 2017 under Section 2(K) of Industrial Dispute Act. However, the Labour



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Court has dismissed the same. Challenging the same, the petitioner has filed the present writ petition.

3. The learned counsel appearing for the petitioner Union would submit that the petitioner Union raised an industrial dispute against the punishment imposed against one Mr.M.Suresh Subramanian, under Section 2(K) of the Industrial Disputes Act. In order to prove the case, the petitioner examined the said Mr.M.Suresh Subramanian as P.W.1 and marked Exs.P1 to P6. But the second respondent not examined any oral evidence and marked Exs.R1 to R11. However, without considering the documents produced by the petitioner Union, the first respondent/Labour Court erroneously arrived a conclusion that the member of the petitioner Union viz. Mr.M.Suresh Subramanian not appeared before the enquiry officer and no document was produced to substantiate his claim and no explanation was offered by him to the second show cause notice and hence, the second respondent has imposed the punishment of stoppage of increment for one year with cumulative effect and rejected the same, which is not sustainable one. Hence, he prayed for appropriate orders.



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4. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent.

5. The facts in the present case are not in dispute. Admittedly, the member of the petitioner Union viz., Mr.M.Suresh Subramanian was working as a Driver in the second respondent Corporation. He suffered due to ill-health and he has not attended duty from 30.05.2006 to 02.06.2006. In view of the unauthorised absence, the second respondent Corporation has initiated disciplinary proceedings against him and appointed an enquiry officer and in the enquiry, he has participated and no document was produced before the enquiry officer. Thereafter, the enquiry officer drawn a proven minute against the member of the petitioner Union and submitted a report before the second respondent. Subsequently, the second respondent issued the second show cause notice to the petitioner on 03.01.2007 and the same was received by the member of the petitioner Union and no explanation was submitted before the second respondent. Therefore, the second respondent has imposed the punishment of stoppage of increment



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for a period of one year with cumulative effect on 07.02.2007. Aggrieved by the same, the petitioner Union raised an industrial dispute before the first respondent. The first respondent/Labour Court conducted a detailed enquiry, in which the petitioner Union marked Exs.P1 to P6 and examined the said Member as P.W.1 and on behalf of the second respondent, they are not examined any oral evidence. However, they marked Exs.R1 to R11.

6. A perusal of the exhibits filed by the petitioner Union as well as the second respondent Corporation reveal that though the petitioner Union submitted two documents viz., Exs.P1 and P2/Medical Certificates for the periods from 30.05.2006 to 02.06.2006 and 03.06.2006 to 18.06.2006, no document was produced before the Labour Court for sanction of the leave. Per contra, the second respondent Corporation has filed Exs.R1 to R11 relating to leave application. However, the said leave application was not endorsed by the second respondent Corporation. In the absence of any document, the first respondent/Labour Court has rejected the petitioner's claim, which cannot be interfered with by this Court.



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7. In the result, this Writ Petition is dismissed. No costs.

10.01.2023

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To

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2.The Management,
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Tirunelveli Ltd.,
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M.DHANDAPANI,J.

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