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W.P.(MD)NO.9413 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9413 of 2023 and
W.M.P.(MD)No.8405 of 2023

The Managing Director,
TNSTC (Kumbakonam) Ltd.,
Periamilaguparai,
Tiruchirappalli -1.

... Petitioner

Vs.

S.Selvaraj,
S/o.K.Srinivasan,
TNSTC (Kumbakonam) Ltd.,
Trichy Region, Keezha Theru,
Vaduvur Vadapadhi,
Mannargudi Taluk,
Thiruvarur District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the Labour Court, Tiruchirappalli in I.D.No.59 of 2016 dated 20.07.2022 and quash the same.

For Petitioner : Mr.S.C.Herold Singh

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**ORDER**

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Heard the learned counsel appearing for the writ petitioner.

2. The respondent joined the petitioner / Corporation as driver in the year 1990. He was unauthorisedly absent from 06.02.2013 to 29.06.2013. In this regard, charge memo dated 01.08.2013 was issued. The respondent submitted that since he had spinal cord problem, he was unable to attend and he also produced medical certificate. The explanation was not found convincing. Enquiry was held. The charge was found to be proved. Eventually, the respondent was dismissed from service vide order dated 09.10.2015.

3. Questioning the same, the workman filed I.D.No.59 of 2016 on the file of the Labour Court, Tiruchirappalli. Evidence was adduced on both sides. After an elaborate consideration of the evidence on record, the Labour Court came to the conclusion that considering the nature of misconduct, the punishment of dismissal was disproportionate and hence it modified the same to compulsory retirement. Challenging the said award dated 20.07.2022, the present writ petition came to be filed.



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4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned award and restore the punishment originally imposed on the workman.

5. I am not persuaded by the said submission. The Labour Court does have the power to interfere with the punishment under Section 11A of the Industrial Disputes Act 1947. It has not been shown that this power has been exercised in an improper or perverse manner. The Labour Court has given convincing reasons as to why it has interfered with the punishment imposed on the workman. The Labour Court has referred to filing of W.P.(MD)No.19076 of 2013 by the workman invoking his right under The Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act 1995. The petitioner was referred to Medical Board also. The Labour Court felt that there was some justification in the defence taken by the workman. The Labour Court had not exonerated the workman. It had only modified the punishment to one of compulsory retirement. No interference in exercising the jurisdiction under Article 226 of the Constitution of India is called for.



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6. This writ petition stands dismissed. No costs. Consequently,
connected miscellaneous petition is closed.

24.04.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

The Judge,
Labour Court,
Tiruchirappalli.

G.R.SWAMINATHAN,J.



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