



W.A.(MD)No.670 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.670 of 2018

and

C.M.P.(MD)No.3764 of 2023

R.Manoharan

... Appellant

Vs.

1.The Management,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
District Collector Office Post,
Bye Pass Road, Dindigul-624 004.

2.The Presiding Officer,
Labour Court, Tiruchirappalli.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.461 of 2015, dated 12.03.2018 on the file of this Court.

For Appellant : Mr.K.M.Ramesh

For R1 : Mr.J.Senthil Kumaraiah



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JUDGMENT

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(Judgment of the Court was delivered by ***V.LAKSHMINARAYANAN, J.***)

This Writ Appeal challenges the order passed by the learned Single Judge in W.P.(MD)No.461 of 2015, dated 12.03.2018.

2.The Writ Petition arose out of the order dated 31.08.2012 passed by the Labour Court at Trichirappalli in I.D.No.139 of 2006.

3.The appellant before us was working as Conductor from 13.08.1981 till 20.08.2002. He had stated that while he was working as Conductor, on 03.06.2002 it was noticed that he had given tickets to passengers, which were altered from Rs.1 to Rs.4. In order to submit the tickets to the Head of the Department, he had retained those tickets in his cash bag. While the bus was proceeding near Vadipatti, it met with an accident. Therefore, he was not in a position to submit the tickets to the Ticket Manager.

4.The discrepancies in the altered tickets were noted on 04.06.2002, when other Conductor by name Murugan took charge. On 08.06.2002, when the



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appellant approached the Ticket Manager for leave, he was not granted the same.

Therefore, he returned to duty. The Checking Inspector, who checked the bus at Devadhanapatti, found the altered tickets and sought for explanation from the appellant but nothing was forthcoming. Therefore, the appellant was suspended from service on 10.06.2002 and the charge memo was issued to him.

5.An enquiry officer was appointed and the enquiry was conducted on 15.07.2002. The enquiry officer found the charges proved and submitted a report on 12.08.2002. The explanations given by the appellant were not satisfactory, thus, he was dismissed from service on 20.08.2002. Challenging the said dismissal order, the appellant had presented the aforesaid I.D.No.139 of 2006.

6.The learned Senior Counsel appearing for the appellant is that there was conciliation, which was pending at the instance of the Union and the Management between the period from 20.03.2002 to 08.09.2005. The point he urged is as per Section 33(2)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act'), it is the duty of the Management to get prior approval from the appropriate authority prior to passing any order as against the workman. This issue had been gone into by the Industrial Tribunal by following the



judgment in *Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd., Vs. Shri Ram Gopal*

Sharma and others reported in *2002 (1) L.L.J page 834* and it came to the conclusion that the order of dismissal from service without obtaining approval from the appropriate authority is void and non est. Consequentially, it allowed the application filed by the appellant, setting aside the order of dismissal and directing the reinstatement of the appellant together with backwages.

7.Challenging the order passed in the application as mentioned earlier, W.P.(MD)No.461 of 2015 was filed by the Management and W.P.(MD)No.1496 of 2015 was filed by the appellant, seeking for Mandamus to direct the Management to implement the award.

8.The learned Single Judge allowed the Writ Petition filed by the Management on the ground that the order of the Labour Court and the petition filed by the appellant were vague and bereft of details about invoking Section 33(2)(b) of the Act. Challenging the said order, the present Writ Appeal has been instituted by the appellant Workman.



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9. When the appeal was taken up for hearing, we asked the learned counsel appearing for the 1st respondent that if any application had been filed as required under Section 33(2)(b) of the Act, the learned counsel fairly submitted that no such application had been filed. The fact that the conciliation proceedings were initiated, which are pending, is clear from the proceedings issued by the Deputy Commissioner of Labour, Chennai, dated 20.05.2011, which has been enclosed at Page No.30 of the typed set of papers and it has been marked as Ex.W.9 before the Tribunal.

10. The factum that the conciliation was pending and the position that no approval had been sought for, having been accepted by the Management, the judgment of the Supreme Court in ***Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd., case*** would apply in full force. Consequentially, the order of dismissal has to be necessarily declared as void.

11. In fine, the order of the learned Single Judge, remitting the matter back to the Labour Court to decide the issue under Section 33(2)(b) of the Act, is unnecessary, since the conciliation had already been pending and the proof of



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which was also marked as Ex.W.9. Therefore, the order of the learned Single Judge dated 12.03.2018 passed in W.P.(MD)No.461 of 2015 is set aside and the award dated 31.08.2012 passed by the Labour Court in I.D.No.139 of 2006 stands confirmed.

12. Accordingly, this Writ Appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S., J.) & (V.L.N., J.)

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