



W.P.No.26017 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	17/10/2023
Delivered on	6/2/2024

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Writ Petition No.26017 of 2008

U.Sekar ... Petitioner

Vs.

The Management of Tamil Nadu
State Transport Corporation,
(Villupuram Division - 3) Ltd.,
Formerly known as
Purachi Thalaivar MGR Transport Corp.),
Kancheepuram,
Kancheepuram District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus, to call for the records pertaining to the impugned award passed in I.D.No.850/2001 dated 15.04.2008 issued by the Presiding Officer, Labour Court, and related proceedings to quash the same to reinstate the petitioner to the employment under the respondent with all attendant benefits.



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For petitioner : Mr.V.Subramani
For respondent : Mr.Aswin
Standing Counsel

ORDER

This writ petition is filed to quash the order passed in I.D.No.850/2001 dated 15.04.2008 issued by the Presiding Officer, Labour Court, and to reinstate the petitioner with all attended benefits.

2. The facts in brief culled out from the affidavit enclosed in the writ petition are as follows:

2.1. The petitioner was working as a Conductor in the respondent organization. The conductors after completion of their duty would submit their day to day accounts, viz., tickets, calculations etc., to the officials concerned. However, verification of the said accounts would happen not immediately after submission but with delay accounts will be verified. In case of any shortfall is found, the same would be deducted from the salary of the concerned Conductor.



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2.2. The petitioner also had a shortfall in accounts and hence the same was deducted from his salary. A special audit was conducted and it was alleged that from 05.05.1993 to 04.06.1995, the petitioner had been showing lesser entries in the regular invoices submitted which amounted to a sum to a Rs.1958.50/- and it was also found some calculation mistakes.

2.3. Accordingly, disciplinary proceedings were initiated against the petitioner and on the conclusion of which he was dismissed from service on 29.03.1996 vide Proceeding No.294/6594/810 MGRTC/95. The petitioner has preferred an appeal to the Managing Director, however, the same was also rejected.

2.4. The petitioner has approached CITU Union seeking help in conducting his case. He was informed by the Union that proceedings were being initiated before the Tribunal to set aside his order of dismissal. He was also informed by the Union that the management has to approach the Tribunal for confirming the dismissal order but later found that no such proceedings were prepared nor initiated to cancel the dismissal



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order. The petitioner underwent a surgery and after recovery, again approached the respondents for re-employment.

3. Heard Mr.V.Subramani, learned counsel for the petitioner and Mr.M.Aswin learned Standing Counsel for the first respondent.

4. The undisputed facts are that the petitioner has worked as Conductor in the respondent Corporation and it was found in the audit that during the period commencing from 5/5/1993 to 4/6/1995 the petitioner has shown lesser entries in the invoices than the amount to be paid in respect of sale of tickets, thereby, an amount of Rs.3,612.70 fell short. Notices were given to him. Disciplinary proceedings have been initiated. Enquiry was conducted, wherein it was found that the petitioner has committed mis-conduct in not depositing the amount of sale of tickets. Final notice was given and ultimately he was dismissed from service. The petitioner has approached the officials of the Management and as no favourable order has been passed, he has raised the Industrial Dispute in I.D.No.850 of 2001 and the same was also dismissed on 15/4/2008.



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5. The respondent Management though has not filed the counter, the record speak that the respondent has filed counter before the labour Court stating that the petitioner has committed misappropriation and caused loss to the Corporation to the tune of Rs.3,612.70 and after following the due process, he was dismissed from service and that the petitioner has approached this Court after a lapse of five years from the date of passing the dismissal order.

6. Now therefore, it has to be considered whether award passed by the labour Court dismissing the Industrial Dispute raised by the petitioner is sustainable in law.

7. This Court under Article 226 of the Constitution of India can interfere with the Award passed by the Labour Court only in case if it is demonstrated before this Court that the Award passed by the labour Court is perverse. The Labour Court in order to consider the Industrial Dispute raised by the petitioner is expected to appreciate the records of the Enquiry Officer to see whether the principles of natural justice have been followed and whether the conclusion of the labour Court is basing on legal evidence.



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WEB COPY 8. I have gone through the Award passed by the labour Court meticulously. The labour Court has found that prior to initiating the domestic enquiry, the petitioner was asked to explain about the delay and during the course of enquiry proceedings, the petitioner was given an opportunity. Further, before the labour Court, the petitioner was examined as W.W.1 and respondent management has examined one witness as M.W.1. The petitioner has filed twelve documents whereas the respondent Management has filed 11 documents.

9. On considering the oral and documentary evidence and on the basis of the enquiry report, the labour Court has come to the conclusion that not only the principles of natural justice have been followed scrupulously but also come to the conclusion the enquiry conducted and gave a finding basing on sound evidence of both oral and documentary.

10. It is further observed in the Award that audit report which actually found the petitioner guilty of misconduct in respect of non deposit of some amounts is filed before this Court as Ex.M.1. The petitioner has taken the defence even before the labour Court that he has



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enclosed all the counter foils of sold tickets and not misappropriated any amount. It is also found that though the writ petitioner has taken such a defence, he has not deposited all the counter foils of the sold tickets.

11. On analysing the entire material on record, the labour Court also found that allegations against the petitioner in respect of misappropriation are correct. When the finding of the labour Court is basing on oral and documentary evidence, when the labour Court finds that enquiry was conducted after giving fair opportunity, this Court is of the opinion that there is no infirmity in the Award passed by the labour Court in dismissing the Industrial Dispute raised by the petitioner. In view of the above, this Court is of the opinion that there is no scope for interference of this Court in the Award passed by the labour Court.

12. In the result, this writ petition is dismissed. No costs.

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mvs.

Index: yes/No

Neutral Citation: Yes/No



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Dr.D.NAGARJUN,J

mvs.

Pre-delivery order made in
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