



W.P.No.34605 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.34605 of 2012

K.T.Kaliyamoorthy

... Petitioner

Vs.

1.The Management,
Tamil Nadu State Transport Corporation,
(Kumbakonam Division) Limited,
Kumbakonam.

2.The Presiding Officer,
Labour Court,
Cuddalore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the entire records relating to I.D.No.29 of 2007 on the file of the 2nd respondent herein dated 28.06.2012 and quash the same.

For Petitioner : Mr.B.Neduchezhiyan for
Mr.R.Muralidharan

For Respondents : Mr.S.Sathya Gandhi for R1
Labour Court for R2

ORDER



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This Writ Petition has been filed to issue a Writ of Certiorari, to call for the entire records relating to I.D.No.29 of 2007 on the file of the 2nd respondent dated 28.06.2012 and quash the same.

2. Heard Mr.B.Neduchezhiyan, learned counsel for the petitioner and Mr.S.Sathya Gandhi, learned counsel for the first respondent and perused the materials available on record.

3. The petitioner who is the conductor in the first respondent Corporation, has been dismissed from service on 25.01.2002 on the allegation of misappropriation. As the charges have been proved, he has been dismissed from service. Challenging the same, the workman had filed an industrial dispute in I.D.No.29 of 2007 and the same was dismissed. Now, this Writ Petition has been filed challenging the said award of dismissal. The petitioner has been given with charges stating that in the ticket book No.797 handled by the petitioner, he has sold five tickets in the middle of the book and misappropriated the ticket fare amount.



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4. The learned counsel for the petitioner submitted that so far as the petitioner is concerned, he has handed over the ticket book completely without any omission in the middle part of the ticket book. It is further submitted that the missing of five tickets in the middle part of the ticket book should have happened after the petitioner had handed over the ticket book and for which, the petitioner is not liable.

5. But the fact remains that the conductor who had taken charge of duty subsequent to the petitioner had found the missing tickets in the middle part of the ticket book and have reported to the Management. In this kind of allegations, the presumption can be taken only against the petitioner because the petitioner has handled the ticket book as a last person. Only the conductor can sell the tickets to the passengers and any other persons other than the conductor cannot utilise the tickets by selling it to the passengers. The petitioner had handed over the ticket book and it has been taken by the next conductor who assumed duty. It is not the contention of the petitioner that the ticket book was handled by any other



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conductor other than himself or the next conductor who had taken charge.

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6. The five ticket bearing Nos.79664 to 79668 were missing in Book No.797 and the ticket charges would amount to Rs.3.50/-. The contention of the petitioner that there is no eye witness who had seen the petitioner, cannot be accepted because any one who intends to steal away any articles will not do that in front of any other persons. When the petitioner was given with notice calling for explanation, he was not able to give any appropriate explanation for the missing tickets. It is further submitted that the petitioner had agreed to pay the ticket fare corresponding to the missing tickets.

7. It appears that during the domestic enquiry, the Enquiry Officer had appreciated the best materials produced before him and arrived at a conclusion that the charges against the petitioner has been proved. In fact, for the show cause notice, which has been furnished to the petitioner, he did not offer any explanation. Even after the copy of the domestic enquiry report was furnished to the petitioner along with the second show cause



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notice, the petitioner did not choose to send any reply. The conduct of the petitioner coupled with the circumstances and the facts proved before the Enquiry Officer had culminated into the finding that the charges against the petitioner has been proved. The above facts have been rightly appreciated by the learned Labour Judge. The punishment of dismissal is appropriate and proportionate to the serious and proved charge of misappropriation. Hence, I do not find any illegality to interfere with the award passed by the Labour Court by dismissing the industrial dispute preferred by the petitioner.

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

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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To

1.The Management,
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Kumbakonam.

2.The Presiding Officer,
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