



W.P.No.34145 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.34145 of 2015

&

M.P.No. 2 of 2015

C.Subramani

...Petitioner

Vs.

1.Tamil Nadu State Transport Corporation
MUC Workshop
Broadway, Chennai.

2.The Management
Tamil Nadu Transport Corporation
(Villupuram) Ltd.,
(Formerly known as Thanthai Periyar
Transport Corporation) Ltd., (Villupuram)
Villupuram.

3.The Presiding Officer
II Additional Labour Court,
High Court Campus,
Chennai – 104.

...Respondents



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Prayer: Writ Petition is filed under Article 226 to issue a Writ of Certiorarified Mandamus to call for the records in ID 945/1999 and the award passed by the 3rd respondent on 21.07.2010 and quash the same and consequently directing the first and second respondents to reinstae the petitioner with full backwages, continuity of service and all other attendant benefits.

For Petitioner : Mr. K.Muruganantham

For Respondents : Mr. M.Aswin
1 & 2

For Respondent 3 : Court.

ORDER

Challenging the dismissal of the Industrial Dispute filed by him the petitioner is before this Court.

2. It is the petitioner's case that he had entered the service of the 1st and 2nd respondents as a Conductor on 24.11.1992. He would submit that he has been a sincere and hard working employee and has



been appreciated by his superiors. In the year 1998, he was charged for misappropriation of the transport funds on various dates for issuance of tickets.

3. The petitioner was suspended from service on 07.09.1998 and a charge sheet had been issued on 16.10.1998. The charge memo was issued on 05.11.1998 and domestic enquiry was fixed on 15.11.1998, 05.12.1998 and 18.12.1998. The petitioner had not participated in the domestic enquiry and he would submit that he was not able to participate in the enquiry since he was suffering from Jaundice. However, the enquiry officer proceeded to pass an ex parte order and on the basis of this order the order of dismissal had been issued.

4. The petitioner had thereafter filed I.D.No.945 of 1999 on the file of the 3rd respondent who had also confirmed the dismissal order. Challenging the order passed by the 3rd respondent the petitioner is before this Court.



5. The respondent Transport Corporation had filed a counter statement inter alia contending that the petitioner has been guilty of not only of a single incident - misappropriation but he had also on 01.08.1998 corrected the serial numbers in ticket books and misappropriated a sum of Rs.144.45/- and a sum of Rs.401/- on 04.09.1998. Thereafter, the petitioner was placed under suspension with effect from 08.09.1998 and a charge memo dated 08.10.1998 was issued to him.

6. The petitioner has not submitted any explanation to the charge memo though he has acknowledged the receipt of the charge memo and domestic enquiry was also ordered after notice to the petitioner. An enquiry notice was given on 02.11.1998 directing the petitioner to appear on 13.11.1998. However, the petitioner did not turn up for enquiry and the matter was adjourned to 05.12.1998. On 05.12.1998 once again he had not attended the enquiry and the matter was adjourned to 18.12.1998 which fact was also informed through enquiry notice dated 09.12.1998 directing the petitioner to appear on



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18.12.1998.

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7. The Enquiry Officer held the petitioner guilty of charges and issued show cause notice dated 26.02.1999 calling for an explanation. Since no explanation was received from the petitioner the management had confirmed the provisional conclusion and issued final order dated 18.03.1999 to the petitioner removing him from service. Against this order the petitioner has moved the 3rd respondent. The 3rd respondent had conducted a fair enquiry and dismissed the ID after perusing the documents filed on the side of the respondent management under Ex.M.1 to Ex.M.46. The respondent Management would further submit that the 3rd respondent has passed a very reasoned award taking into account the documents filed on either side and this Court sitting under Article 226 should not re-appreciate the same.

8. Heard the learned counsels and perused the records.



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9. The petitioner has challenged the order passed in I.D.No.945 of 1999 dated 21.07.2010. The said dispute had been filed to re-instate the petitioner into the service. The main plank of the argument on the side of the petitioner is that an ex parte award has been passed without affording fair chance to the petitioner to make his submissions. However, a perusal of the award in I.D.No.945 of 1999 would clearly indicate that the petitioner was not present before the enquiry officer on 13.11.1998, which was the date on which the petitioner had been asked to appear before the enquiry officer. It is seen that when the matter was posted on 05.12.1998 once again there was no appearance on the side of the petitioner, ultimately the matter was posted on 18.12.1998 on which date also the petitioner had not turned up despite receiving the enquiry notice. The enquiry officer thereafter conducted an enquiry and held that all the charges has been proved.

10. The petitioner has not chosen to appear before the enquiry officer and without appearing before the said authority he cannot contend that the principles of natural justice has been violated. The



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petitioner was afforded yet another chance when the second show cause notice had been issued to him on 26.02.1999. To this notice also he had not submitted his explanation and thereafter the management had confirmed the provisional conclusion arrived at by them.

11. Therefore, from a very perusal of the papers and records, it is clear that the petitioner has deliberately kept away from the proceedings and after having stood outside the proceedings he cannot now turn around and state that he has not been given an opportunity. Further, no grounds whatsoever has been made to prove the contention of the petitioner.

12. In fine, the Writ petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

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Index : Yes/No
Internet : Yes/No
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To

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