



WP.No.4016 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2024

CORAM

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

WP.No.4016 of 2013

The Management,
T.N.State Transport Corporation Ltd.,
Division-III, Villupuram
Kancheepuram.

... Petitioner

Vs.

1. R.Punniakotti (deceased)
 2. The Presiding Officer,
1st Additional Labour Court,
Chennai-600 104.
 3. Saraswathi
 4. P.Suresh
 5. Sumathi
 6. Geetha
- (R3 to R6 are substituted as LR's of the deceased R1
vide order dated 16.11.2023)

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified, calling for the records in ID.No.520/2003 order dated 10.08.2011 on the file of the 1st Additional Labour Court, Chennai and quash the same.



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For Petitioner : Mr.M.Aswin
Standing Counsel for TNSTC, Villupuram
For Respondents : Mr.K.M.Ramesh
Senior Counsel
for Mr.M.Azhagananth for R3 to R6
R1-Died
R2-Court

ORDER

The instant writ petition has been filed by the Management against the order of the Labour Court dated 10.08.2011.

2. The learned counsel for the appellant-Corporation would submit that the respondent-workman joined in the appellant-Corporation on 01.05.1978, and for his misconduct of issuing sold tickets to the passengers, and for possessing an excess of Rs.51.15/- in his cash bag. This was found by the Checking Inspector one Mr.Ashok Kumar, and on his complaint, the petitioner was suspended and thereafter, based on the enquiry report, he was terminated from service. Whereas, the Labour Court, without going into the merits of the matter, and in contrary to the available evidence have wrongly arrived at a conclusion that the charges have not been proved, and directed the reinstatement of the petitioner with 25% back wages. Thus, it is the contention of the learned counsel for the petitioner that such finding is contrary



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to the evidence. Therefore, prayed to interfere with the order of the Labour Court.

3. Per contra, the learned Senior Counsel would submit that, the only evidence against the delinquent workman was Mr.Ashok Kumar, Checking Inspector. It is the further contention of the learned Senior Counsel that when Mr.Ashok Kumar was checking the petitioner, there was another Checking Inspector viz., Mr.Gnanasekar. However, such independent witness has not been examined, which cause grave doubt on the Management case. Apart from that, the passengers, who were issued with the sold tickets have also not been examined. Therefore, vehemently contended that the finding arrived by the Labour Court that the charge has not been proved is in consonance with the available materials, and the same does not require any interference in the present writ petition.

4. I have given my anxious consideration to either side submissions.

5. The sum and substance of the contention of the learned counsel for the petitioner is that the complainant Mr.Ashok Kumar, who found the



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misconduct of the petitioner, was examined by the Management. Through his evidence, the management has established the charge against the respondent-workman. It is well settled principle of law that in a domestic enquiry, the standard of proof is only a preponderance of probability, and not beyond the reasonable doubts. Here, the management witness spoke about the misconduct of the respondent workman. Though there are no corroborative evidence, the respondent did not plead bias against the Management witness. However, the reason assigned by the Labour Court that the non-examination of the another Checking Inspector and the non-examination of passengers found to be a ground to disbelieve the evidence of Mr.Ashok Kumar. Such approach is perverse.

6. At this juncture, the learned counsel relied upon the judgment of the Hon'ble Supreme Court in *North West Karnataka Road Transport Corporation Vs. H.H.Pujar* reported in (2008) 12 SCC 698. Wherein, the Hon'ble Supreme Court by relying upon the judgment of *Rattan Singh's* case [*State of Haryana Vs. Rattan Singh* reported in (1977) 2 SCC 491] has held that in a domestic enquiry, the strict and sophisticated Rules of evidence under the Evidence Act is not relevant. What is relevant is only the materials, which are logically probative for a prudent mind. The relevant paragraph in *North*



West Karnataka Road Transport's case is paragraph 9 and the same reads as follows:-

“9. In State of Haryana v. Rattan Singh [(1977) 2 SCC 491 : 1977 SCC (L&S) 298] it was, inter alia, held as follows : (SCC pp. 493-94, paras 4-5)

“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. It is true that departmental authorities and Administrative Tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Evidence Act. For this proposition it is not necessary to cite decisions nor textbooks, although we have been taken through case law and other authorities by counsel on both sides. The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fair play is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below misdirected themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The ‘residuum’ rule to which counsel for the respondent referred, based upon certain passages from American Jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence—not in the sense of the technical rules governing regular court proceedings but in a fair commonsense way as men of understanding and worldly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to



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look into because it amounts to an error of law apparent on the record. We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has relevance to the charge levelled against the respondent. Therefore, we are unable to hold that the order is invalid on that ground.

5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the re-evaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the Administrative Tribunal. In conclusion, we do not think the courts below were right in overturning the finding of the domestic tribunal."

(emphasis in original)

The view was reiterated in Karnataka SRTC v. A.T. Mane [(2005) 3 SCC 254 : 2005 SCC (L&S) 407 : (2004) 8 Scale 308]."

Therefore, I am of the opinion, the Labour Court misdirected himself without assigning any reason as to why Management witness is not reliable.

7. It is pertinent to mention here that the workman has not challenged the fairness of the domestic enquiry. In that background, if we look at the evidence of the Management witness Mr.Ashok Kumar, it is amply sufficient to probablise the case projected by the Management. Therefore, this Court is



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of the firm view that the findings recorded by the Labour Court is liable to be interfered with.

8. Accordingly, the writ petition is allowed by setting aside the order of the Labour Court dated 10.08.2011. As a concomitant, the order of termination passed against the respondent is restored. No costs.

11.07.2024

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Index : Yes /No

Speaking order : Yes/No

Neutral Citation : Yes/No

To

The Presiding Officer,
1st Additional Labour Court,
Chennai-600 104.



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C.KUMARAPPAN, J.

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