



W.P.No.9753 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.01.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.9753 of 2019

and

W.M.P.No.10347 of 2019

The Management,
Tamilnadu State Transport Corporation
(Salem Division – 1) Limited,
12, Ramakrishna Salai,
Salem – 636 007.

...Petitioner

Vs.

General Secretary,
Salem Dharmapuri Namakkal Erode,
District Transport and General workmen's Union,
89/408-S, Mullai Nagar,
Sooramangalam post,
Salem – 636 005.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the Award dated 15.03.2018 passed by the labour Court, Salem in I.D.No.43 of 2015 and quash the same.

For Petitioner : Mr.Aswin



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For Respondent : No Appearance

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ORDER

The writ petition is filed challenging the award dated 15.03.2018 passed by the labour Court, Salem in I.D.No.43 of 2015.

2. The petitioner will be referred to as Management/Corporation and the respondent as Union.

3. The Industrial Dispute was raised by the Union in relation to the dispute of one its member S.Selvanathan. The Union placed a total of seven demands before the labour Court seeking to set aside various punishment orders passed by the petitioner Corporation for the misconducts committed by the said Selvanathan.

2. The demands of the Union were as follows:-

(1) To set aside the order dated 10.01.2011 of stoppage of three months' increment without attendant benefits and a fine of Rs.1000 for causing the accident on 16.09.2009.



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(2) To set aside the order dated 27.10.2010 of stoppage of six months' increment with attendant benefits for the accident caused by the said S. Selvanathan on 17.12.2009.

(3) To set aside the order dated 04.05.2013 for verbally abusing another employee of the petitioner Corporation.

(4) To set aside the order dated 10.04.2013 of stoppage of six months' increment without attendant benefits.

(5) To set aside the order dated 22.11.2012 of postponing by one month the increment of Selvanathan for unauthorised absence.

(6) To treat 13.06.2011 as a day on which Selvanathan had worked, when, in reality, he had appeared for medical checkup.

(7) To treat 11.07.2012 as a day on which Selvanathan had worked, when, in reality, he had appeared for medical checkup.

3. The labour Court rejected the demands, 1, 2 and 4 and allowed the demands 3, 5, 6 and 7. Aggrieved by the order of the labour Court in allowing the demands 3, 5, 6 and 7 of the workman, S.Selvanathan, the Management/Corporation has filed the above writ petition.



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4. Though the respondent was served with notice, none appears for the respondent.

5. The learned counsel for the petitioner submits that as far as the demands 3, 5, 6 and 7 are concerned, the findings of the labour Court are erroneous. The counsel further submits that the labour Court erred in interfering with the punishment imposed by the Corporation for the misconducts committed by the workman.

6. The third demand relates to setting aside of the order dated 04.05.2013 for verbally abusing another employee of the Management/Corporation. The labour Court on appreciation of the evidence found that the words uttered by the workman were not abusive, but uttered on the spur of the moment. The labour Court observed that when the charge was using abusive language and when the words used were not found to be abusive but only argumentative, the imposition of the punishment of one year postponement of increment with effect from the next increment was disproportionate to the misconduct and therefore, set aside the same.



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7. The fifth demand relates to the order dated 22.11.2012 postponing by one month increment of the workman for unauthorized absence. The misconduct attributed to the workman was unauthorised absence from 06.09.2012 to 22.09.2012.

8. The labour Court found that the workman had sought permission of the Branch Manager on 06.09.2012 and further, he had sent a telegram on 10.09.2012 along with the medical certificate, in support of his leave on medical grounds. The labour Court further found that though the workman communicated that he had gone on leave with due permission and that he was ready to face enquiry, no enquiry was conducted and the punishment of one month postponement of increment was imposed. The labour Court, therefore, set aside the order on the ground that the Management/Corporation did not explain under which provision of the Standing Order the punishment of one month postponement of increment was made, more so, when the minimum period under the certified Standing Order was 3 months.

9. As far the the demands 6 and 7 to treat 13.06.2011 and 11.07.2012



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as days on which the workman worked even though he had gone for medical
checkup is concerned, the labour Court on the premise that the
Management/Corporation did not dispute that the workman had to go for
periodical Eye check up and Ear check up, held that those days could be
treated as duty days. The labour Court therefore directed the petitioner to
consider the two days as duty days for the purpose of pension and other
benefits. I find no perversity in the findings of the labour Court on the
aforesaid demands. The findings are findings of fact and based on
appreciation of the evidence on record and hence I see no reason to interfere
with the same. In view of the above discussion the award of the labour Court
is confirmed as there is no infirmity or illegality in the same.

10. Accordingly, this writ petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

10.01.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order



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Neutral Citation Case : Yes/No
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N.MALA, J.

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To

The Labour Court, Salem

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