



WEB COPY



W.P.No.9089 of 2015 & M.P.No.1 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.01.2024

Coram:

THE HONOURABLE Mr. JUSTICE N. SENTHILKUMAR

W.P.No.9089 of 2015
& M.P.No.1 of 2015

Management of Tamil Nadu State Transport Corporation,
(Coimbatore Division) Ltd,
No.38, Mettupalayam Road,
Coimbatore-641 043.
(Represented by the Managing Director).

... Petitioner

/versus/

1. The Presiding Officer,
Labour Court,
Coimbatore.

2. K.K.Palaniyappan.

...Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India, pleaded to issue a Writ of Certiorari to call for the records of the 1st respondent, the Labour Court, Coimbatore made in I.D.No.46 of 2010 dated 15.05.2013 and quash the same.

For Petitioner	: Mr.Murali Vinodh
For R1	: Court
For R2	: Mr.K.V.Shanmuganathan

ORDER

Page No.1/7



W.P.No.9089 of 2015 & M.P.No.1 of 2015

WEB COPY

This writ petition is filed by the Management of Tamil Nadu State Transport Corporation challenging the award passed by the 1st respondent in I.D.No.46 of 2010.

2. The case of the petitioner/Management is that the 2nd respondent was working as a driver in the petitioner/Management. He was continuously absent from 30.11.1999 to 15.12.1999 without getting prior permission or sanction of leave. The 2nd respondent was served with the charge memo dated 15.12.1999 and explanation was sought. According to the petitioner/Management, the 2nd respondent did not give any explanation to the charge memo and thereafter, the Management conducted a domestic enquiry.

3. The 2nd respondent participated in the domestic enquiry and he gave up his chance of cross examining the Management witness and thereafter, the Enquiry Officer has submitted the report dated 31.03.2000 that the charges levelled against the 2nd respondent was true. The second show cause notice based on the enquiry report was served on the 2nd respondent on 01.06.2000 asking for his explanation. The 2nd respondent offered his explanation on 16.06.2000 and which



was not satisfactory to the petitioner Management and therefore, the 2nd respondent was dismissed from the service on 26.07.2000.

4. The petitioner/Management has taken into consideration of his antecedents which has been narrated in their affidavit which is extracted hereunder:-

“On 11 occasions he was continuously absent for duty for this 4 times he was warned severely, one time warned and leave granted with loss of pay and 1 time increment was postponed for 2 years with cumulative effect and another 4 times increment was postponed for 1 year with cumulative effect each and one time increment postponed 6 months without cumulative effect. Further he involved in accident on 2 times for this one time damage cost recovered from him and one time increment was postponed for 1 year without cumulative effect. Further one time he refused to perform duty in a particular vehicle and on 3 occasions damaged the main leaf of the vehicle and another time stopped the vehicle without diesel.”

5. Challenging the order of dismissal, the 2nd respondent raised a dispute before the Labour Court, Coimbatore, vide I.D.No.46 of 2010 under Section 2 A(2) of Industrial Dispute Act 1947. The Labour Court has set aside the order of dismissal dated 26.07.2000 holding that the punishment is primitive in



W.P.No.9089 of 2015 & M.P.No.1 of 2015

nature and directed the Management to reinstate the 2nd respondent with all backwages.

6. Mr.K.V.Shanmuganathan, Learned Counsel for the 2nd respondent contends that it is inappropriate on the part of the Management for taking into consideration of the previous punishments which did not reflect in the show cause notice.

7. The charges pertains to the unauthorised absent for a period of 15 days and after following the procedure, punishment imposed was removal from service.

8. Mr.K.V.Shanmuganathan, Learned Counsel for the 2nd respondent would vehemently contend that the punishment was disproportionate and the 1st respondent/Tribunal was absolutely correct in setting aside the punishment imposed by the petitioner/Management.

9. Though, the Learned Counsel for the petitioner/Management would contend that the 2nd respondent being a driver continuously involved in repeated



W.P.No.9089 of 2015 & M.P.No.1 of 2015

accident and absenting himself. Any recklessness or carelessness of a driver may result in a serious causalities. Such submission cannot be ignored.

10. The order of the 1st respondent is upheld. It is also brought to the notice of this Court that the 2nd respondent got superannuated on 31.08.2011. Therefore, the 2nd respondent is entitled for all attendant benefits and all terminal benefits with 6% interest per annum, from the date of order of removal.

11. With this observation, the Writ Petition is disposed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.01.2024

Index :Yes/No.
Internet :Yes/No.
Speaking Order/Non-Speaking order
bsm

Copy to:-

1. The Presiding Officer,
Labour Court,
Coimbatore.

Page No.5/7



WEB COPY



W.P.No.9089 of 2015 & M.P.No.1 of 2015

N.SENTHILKUMAR, J.

bsm

Page No.6/7



WEB COPY



W.P.No.9089 of 2015 & M.P.No.1 of 2015

W.P.No.9089 of 2015
& M.P.No.1 of 2015

19.01.2024

Page No.7/7