



W.P.No.13894 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.06.2024

CORAM:

THE HONOURABLE Dr. JUSTICE D. NAGARJUN

Writ Petition.No.13894 of 2019
and WMP.No.13960 of 2019

The Management,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Salai,
Chennai-600 002.

... Petitioner

Vs.

The General Secretary,
Arasanga Pokkuvarathu Oozhiyar Sangam,
Regn.No.73, Joint M.D.S. (CITU),
2, Pallavan Salai, Kalaiyaranga Valagam,
Chennai-600 002.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking to issue a Writ of certiorari to call for the records pertaining to the order passed in I.D.No.22 of 2012 dated 24.10.2018 on the file of the III Additional Labour Court, Chennai and quash the same.

For Petitioner : M/s.M. Gowthamaraj
For Respondents : M/s.S.T.Varadarajulu



W.P.No.13894 of 2019

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ORDER

This writ petition is filed by the Management of Metropolitan Transport Corporation (Chennai) Ltd. (for brevity “the Management”) challenging the award dated 24.10.2018 passed by the III Additional Labour Court, Chennai (for brevity “the Labour Court”) in I.D. No.22 of 2012 preferred by the respondent Union under Section 2(k) of the Industrial Disputes Act, 1947, on behalf of one of its members, viz., Kandasamy (for brevity “the workman”).

2. The facts in brief as per the affidavit enclosed to this writ petition are as under:

2.1. The workman, who was a Conductor under the Management, was issued with a charge memo dated 24.04.1991. The gravamen of the first memo was that while he was on duty on 18.04.1991, though he collected money from two passengers towards passenger fare and luggage fare, he issued tickets only for the passengers and did not issue tickets for the luggage held by them, thereby, misappropriated a sum of Rs.1.90/- which was paid towards luggage fare. The other charge was that the workman was having Rs.8.70 in excess in his cash bag.



WEB COPY 2.2. The Enquiry Officer, *vide* report dated 25.08.1992, held both the charges as proved. Pursuant thereto, eventually, the workman was inflicted with the punishment of withholding of increment for three years with cumulative effect, *vide* proceedings dated 14.12.1992 of the Management.

2.3. There against, the respondent union preferred an industrial dispute before the Labour Court and the Labour Court, *vide* award dated 24.10.2018, as regards the first charge, held that the Enquiry Officer failed to appreciate the evidence of the defence witness by name Aathithan, in its proper perspective and that the reasons assigned by the Enquiry Officer for rejecting his evidence of defence witness are not satisfactory. As regards the second charge, the Labour Court held that since the first charge of misappropriation has been wiped out by the defence witness, the second charge that the workman was having excess cash of Rs.8.70 loses its momentum. Eventually, the Labour Court allowed the industrial dispute by setting aside the impugned punishment and directing payment of monetary benefits to the workman.



2.4. Challenging the said award of the Labour Court, the

Management has preferred the instant writ petition.

3. Heard the learned Standing Counsel for the petitioner Management and the learned counsel for the workman.

4. The point for consideration in this writ petition lies in a very narrow compass and that is, whether the Labour Court is justified in allowing the industrial dispute based on the evidence of Aathithan, the passenger witness.

5. While analyzing the findings of the Labour Court, it becomes crystal clear that the entire case hinges on the deposition of the defence witness, Aathithan. At the outset, it is noteworthy that the said Aathithan is none other than one of the two passengers in question. It is not the case of even the Management that the said witness was, in any way, known or related to the workman. Thus, it can safely be discerned that he has no axe to grind to depose against the Management and in favour of the workman. Further, it is the categorical statement of the said witness that the Ticket Examiners threatened him that they would take him to police station and at



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last, they spared him only after he signed a statement which was dictated by them. At this juncture, it is to be noted that the finding of the Enquiry Officer that the defence witness Aathithan, on being threatened by the Ticket Examiners, ought to have gone to police station seeking justice, does not cut ice with this Court. The reason why this Court observes so, is quite evident and manifest from the cross-examination of the defence witness, who has vividly stated that since he had household works, he yielded to the pressure exerted by the Ticket Examiners. This reason assigned by the defence witness sounds quite logical because none would prefer to step into police station and get caught in litigation. Thus, it is quite understandable that only in order to get rid of the situation, the defence witness Aathithan had to sign in the statement as required by the Ticket Examiners. Furthermore, as rightly observed by the Labour Court, while cross-examining Aathithan, no question whatsoever was to put to him to the effect that he was gained over by the workman and brought as a defence witness to give testimony favouring the workman. Viewed from that angle, this Court finds that the Labour Court is perfectly justified in holding that the Enquiry Officer has not properly appreciated the evidence of defence witness Aathithan.



W.P.No.13894 of 2019

6. Coming to the second charge of the workman having excess cash, as rightly observed by the Labour Court, when it has been found that the first charge does not have legs to stand, as a natural corollary, the second charge which is predicated on and consequential to the first charge, has to fall to ground.

7. In view of the foregoing discussion, this Court finds no reason to interfere with the impugned award passed by the Labour Court.

8. Accordingly, this writ petition fails and accordingly dismissed, however, No costs. Connected miscellaneous petitions are closed.

11.06.2024

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Index:Yes/No

Speaking Order: Yes/No

To

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W.P.No.13894 of 2019

Dr.D. NAGARJUN, J.

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W.P.No.13894 of 2019

11.06.2024