



W.A.No.323 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2024

CORAM :

**THE HON'BLE MR. JUSTICE R. MAHADEVAN
AND
THE HON'BLE MR. JUSTICE MOHAMMED SHAFFIQ**

W.A.No.323 of 2023

A.Gandhi

... Appellant

Vs.

1. The Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Rep. by its Managing Director,
Vazhudhareddy,
Villupuram.

2. The General Manager,
The Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Thiruvannamalai Region,
Thiruvannamalai.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 18.03.2022 made in W.P.No.15168 of 2010.

For appellant

: Mr.A.Thiyagarajan
Senior Advocate
For Mr.D.Veerasekaran

For respondents

: Mr.M.Aswin
Standing Counsel



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JUDGMENT

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R. MAHADEVAN, J.

This writ appeal is directed against the order dated 18.03.2022 passed by the learned Judge in W.P.No. 15168 of 2010.

2. The brief facts of the case are as follows:-

2.1 The appellant, who was working as a Bus Conductor in the respondent Transport Corporation, was charged with the misconduct of collecting tickets issued to passengers back from them and re-issuing those tickets to other passengers during the period from 03.10.2007 to 25.10.2007 while on duty in Route No. 122/E/H. It was alleged that the appellant had unlawfully enriched himself to the tune of Rs. 6,590/- and had repeatedly made corrections in the trip sheets about the serial numbers of those re-issued tickets to hide the misconduct.

2.2 After conducting a departmental inquiry, wherein two Senior Superintendents were examined as witnesses and 25 documents, including the tampered trip sheets, were marked as evidence, the Inquiry Officer found the charges to be proved against the appellant. Consequently, the disciplinary authority *vide* order dated 18.09.2009, imposed the following punishment: (i)reducing the pay from Selection Grade Conductor scale to Senior Grade Conductor scale (ii)reducing the basic pay from Rs.10,135/- to Rs.5,435/- (which



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is the initial pay scale of conductor) for five years; and (iii) treating the period of suspension as leave.

2.3 The appellant filed an appeal against the said order, and the appellate authority, *vide* order dated 23.06.2010, partly allowed the appeal by reducing the period of demotion from five years to three years while confirming the findings of the Inquiry Officer.

2.4 Aggrieved by the original order of the disciplinary authority and the appellate order, the appellant challenged the same before the learned Judge.

2.5 The learned Judge, after considering the rival submissions and perusing the material records, dismissed the writ petition, by the order impugned herein.

3 Challenging the order passed by the learned Judge, the writ petitioner has filed the above writ appeal.

4 The learned Senior Counsel for the appellant would contend that the re-issuance of tickets to passengers is usually detected only during surprise checks conducted by Checking Inspectors, during which tickets should be



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retrieved from passengers along with a written statement. However, in this case, the audit report only indicates a correction in the invoice, and thus, this does not constitute misconduct related to ticket re-issuance. He would further submit that the learned Judge failed to see that the original documents were not produced in the departmental inquiry, and the ticket book alleged to have been reissued was not originally issued to the appellant. The Inquiry Officer had also given a finding that the alleged ticket books were not issued to the appellant, and that, one of the main charges was not proved in the inquiry. He would also submit that the learned failed to consider that there was no checking report by the checking inspectors for the alleged charges of reissue of tickets, and without such a checking report, the charges cannot be proved against the appellant. He would further submit that the Inquiry Officer found the appellant not guilty of charges for the alleged irregularities said to have been committed by the appellant on 07.10.2007, 10.07.2007, and 14.10.2007, on the ground that the alleged tickets were not issued to the appellant. Thus, according to the learned senior counsel, the entire disciplinary action initiated based on the audit report and not based on actual check or physical verification by the checking inspectors, is vitiated by *mala fides*.

4.1 Adding further, the learned Senior Counsel would submit that the punishment imposed on the appellant is a reduction in the scale of pay and not a



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demotion as mentioned in the impugned order, which is not a punishment prescribed under the Certified Standing Orders of the respondent corporation. He would further submit that the respondent cannot impose more than one punishment for the alleged misconduct, but three punishments have been imposed: (i) reducing the scale of pay from Selection Grade Conductor scale to Senior Grade Conductor scale, (ii) reducing the basic pay from Rs. 10,135/- to Rs. 5,435/-, (which is the initial pay scale of conductor) for five years, and (iii) treating the period of suspension as leave, which is illegal and without jurisdiction. The learned Senior Counsel would further point out that the appellant has dedicated 24 years of service to the respondent-Corporation, during which he was rewarded five times for higher fare collection fetched to the corporation, however the appellate authority did not pass any speaking order and simply reduced the punishment from 5 years to 3 years. The learned Senior Counsel would submit that the learned Judge failed to consider the grounds raised by the appellant against the order of the disciplinary authority as well as the appellate authority and hence prays to set aside the order passed by the learned Judge.

5 On the other hand, the learned Standing Counsel appearing for the respondent would submit that the charge memo was based on the repeated corrections made by the appellant in the trip sheets by altering the serial numbers of the tickets, which clearly indicates an ulterior motive on the part of the



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appellant. The learned Standing Counsel would further submit that the disciplinary authority and the appellate authority have duly considered the objections/grounds raised by the appellant, and hence, the orders cannot be termed as non-speaking orders. He would also submit that the appellant was given full opportunity to defend the case, and there was no procedural violation in the conduct of the inquiry. The learned Standing Counsel would further submit that the punishment imposed on the appellant is in accordance with the Certified Standing Orders of the respondent corporation, and the disciplinary authority has the discretion to impose appropriate punishment based on the gravity of the misconduct. The learned Standing Counsel would also contend that the initiation of disciplinary proceedings based on the audit report is perfectly valid. Finally, the learned Standing Counsel would submit that the findings of the Inquiry Officer are based on the material evidence on record, and the learned Judge has rightly upheld the same after considering all the relevant aspects of the case. Hence, the learned Standing Counsel prays for dismissing the writ appeal.

6 Heard both sides and perused the materials available on record.

7 Before the writ court, the appellant sought to quash the original order as well as modified order of punishment inflicted on him. However, the learned Judge rejected the claim of the appellant. While so, it was held that the



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charge memo was based on the glaring commissions, i.e., the corrections on trip sheets by altering serial numbers of the tickets in the trip sheets on repeated occasions by the appellant, which leads to a probable and reasonable inference that the appellant did the same with an ulterior motive. The learned Judge further held that the orders passed by the disciplinary authority and the appellate authority cannot be termed as non-speaking orders, as they have considered the objections/grounds raised by the appellant and also assigned reasons, though briefly. Challenging the order of the learned Judge, the appellant is before this court with the present appeal.

8 Upon considering the pleadings and the contentions raised on both sides, the only point that emerges for consideration in this writ appeal is, what is the extent of punishment that the appellant should be inflicted on.

9 While the disciplinary authority has imposed the punishments of demotion from Selection Grade Conductor to Senior Grade Conductor for a period of five years, reduction of basic pay and treating the period of suspension as leave, the appellate authority has reduced the period of demotion from five years to three years, thereby modifying one punishment and sustaining the other two punishments imposed by the disciplinary authority.



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10 It is not in dispute that the appellant had put in 24 years of service as on the date of imposition of punishment. It is not the case of the respondents that the appellant has a bad track record and seemingly, this is the first lapse in the entire career of the appellant spanning nearly a quarter century. Admittedly, this factor had been reckoned by the appellate authority, while reducing the quantum of punishment as a gesture of enabling the appellant to mend his ways.

11 However, as rightly argued by the learned Senior Counsel appearing for the appellant, three punishments have been inflicted on the appellant for one misconduct, which cannot be lost sight of. It is also worth pointing out that the appellant has been given reward on five occasions for fetching higher fare collection and this has not been denied by the respondents. Further, it is also to be pointed out that by now, the appellant should have attained the age of superannuation too, given the fact that at the time of filing the writ petition in the year 2010, the appellant was 50 years of age.

12 Considering the previous track record of the appellant, more so, the reward given to him on five occasions, on the one hand and also considering his misconduct, on the other, this Court, to secure the ends of justice, modifies the aforesaid punishments into one punishment and that being, demotion from the post of Selection Grade Conductor to Senior Grade Conductor for a period of one



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year. Accordingly, the orders impugned in the writ petition as well as in this writ appeal are modified.

In fine, this writ appeal stands disposed of in the above terms. No costs.

[R.M.D,J.] [M.S.Q, J.]
24.04.2024

r n s/cad

Index: Yes / No.

Speaking order/ Non-speaking order

Neutral Citation: Yes / No.

To

- 1 The Managing Director,
The Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Vazhudhareddy,
Villupuram.
2. The General Manager,
The Tamil Nadu State Transport
Corporation (Villupuram) Ltd.,
Thiruvannamalai Region,
Thiruvannamalai.



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R. MAHADEVAN, J.

and

MOHAMMED SHAFFIQ, J.

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