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WA.No.2691 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

WA.No.2691 of 2023
CMP.No.22559 of 2023

The Management, Tamil Nadu State Transport Corporation
Limited, Villupuram, Kancheepuram 631503

Appellant

Vs

1. The Presiding Officer, I Additional Labour Court, Chennai

2. V.Perumal

Respondents

Prayer:- This Writ Appeal is filed, against the order dated, 01.06.2023
made in WP.No.32017 of 2013, by the learned Single Judge of this Court.

For Appellant : Ms.S.Pavithra

For Respondents : Mr.E.C.Murali-R2

JUDGEMENT

(Judgement of the Court was made by C.KUMARAPPAN, J.)

1. This Writ Appeal is filed against the order of dismissal dated,
01.06.2023 made in WP.No.32017 of 2013, by the learned Single Judge



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of this Court.

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2. For the sake of convenience, the parties herein will be referred according to their litigative status before the Labour Court.

3. The brief facts, which led to filing of this Writ Appeal, are as follows:-

(a) The Workman had joined the services of the Management as a Conductor in the year 1978. It is alleged that due to his unauthorised absence, the Management initiated disciplinary proceedings against him, and thereafter, imposed a punishment of dismissal from service, by the order dated, 27.09.1997. Against which, the Workman has raised an industrial dispute in ID.No.484 of 1998 before the Labour Court. The Court, by an award dated, 25.08.2000, ordered for reinstatement of the Workman in service with 50% back wages and also along with other attendant benefits.

(b) As against the same, the Management preferred WP.No.3678 of 2001. However, the learned Single Judge, by order dated, 11.08.2008, confirmed the award of the Labour Court. In the mean time, the Workman was reinstated in service with effect from 14.12.2000.

(c) It is alleged that again, based upon the subsequent delinquencies,



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the Workman was again removed from service with effect from 29.01.2002. Thereafter, the Workman, again, raised another industrial dispute in ID.No.15 of 2004, and by an award dated 21.08.2008, the Labour Court again directed for reinstatement with continuity of service and other attendant benefits. As against the same, the Management filed a Writ Petition in WP.No.5752 of 2009, wherein by the order dated, 23.09.2011, the order of termination was set aside and the matter was remanded back to the Labour Court with a specific direction to go into the fairness of the domestic enquiry.

(d) After remand, the Labour Court found that the domestic enquiry was not conducted in a fair and proper manner, hence, permitted the Management to let in evidence to prove the case. It appears that the Management did not let in any evidence, therefore, the Labour Court, once again, had found that the charge of unauthorised absence levelled against the Workman has not been proved and ultimately, vide order dated, 08.02.2012, directed the Management to reinstate the Workman in service with full back wages and with continuity of service and all other attendant benefits. As against the



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same, the Management again filed a Writ Petition in WP.No.32017 of 2013, wherein by the impugned order dated 01.06.2023, the award of the Labour Court was confirmed. Assailing the same, the instant Writ Appeal has been filed by the Management.

4. The learned counsel for the Management would vehemently contend that the order of the Labour Court is perverse as the Labour Court, without considering the documents and evidence, came to the wrong conclusion and found that the charge of unauthorised absence has not been proved.
5. On the other hand, the learned counsel for the 2nd Respondent/Workman, disputing the above contentions, would submit that when domestic enquiry was not conducted in a fair and proper manner, it is incumbent upon the Management to prove the charge independently before the Labour Court, however, the Management did not prove the charges, except mere marking of documents and therefore, the finding of the Labour Court is well merited and it does not require any interference by this Court. Hence, prayed to dismiss this Writ Appeal.
6. We have carefully considered either side submissions and also perused the materials placed on record.



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7. As rightly contended by the learned counsel for the Workman, at the initial round of litigation, the learned Single Judge, vide order dated, 23.09.2011 in WP.No.5752 of 2009, set aside the order of termination and remanded the matter back to the Labour Court. On remand, the Labour Court, by the order dated, 08.02.2012, came to the conclusion that the enquiry was not conducted in a fair and proper manner. That order reached its finality, as no appeal was filed against the said findings. Therefore, it becomes mandatory on the part of the Management to prove the charge independently before the Labour Court. But, the Management did not let in any evidence, both oral and documentary. In paragraph 13 of the order of the Labour Court, it has found that the Management did not come forward to prove the charge of unauthorised absence, by examining the Officials of the Management. It is settled principle of law that mere marking of documents cannot be equated with that of proof. Here, the Labour Court, after appreciation of evidence, arrived at a conclusion that the charge of unauthorised absence has not been proved, and as a concomitant, ordered for reinstatement of the Workman with full back wages and with all attendant benefits.

8. In the opinion of this Court, the order of the Labour Court is based upon



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the factual findings that too after consideration of available evidence. It is well settled principle of law that under Article 226 of the Constitution of India, this Court, while exercising power of judicial review, cannot go into the factual findings unless it is perverse. As stated supra, the findings of the Labour Court are well considered findings, and we could not find any perversity in it. Hence, the learned Single Judge has also, by the impugned order, confirmed the factual findings of the Labour Court, which in our opinion, does not suffer from any infirmity, warranting interference by this Court. Hence, the instant Writ Appeal is liable to be dismissed.

9. In the result, this Writ Appeal stands dismissed. No costs. Consequently, the connected MP is closed.

(M.S.R.J.) & (C.K.J.)
10.09.2024

Index: Yes/No
Web: Yes/No
Speaking/Non Speaking
Neutral Citation
Srcm

To

The Presiding Officer, I Additional Labour Court, Chennai



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

Srsm

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