



W.A.No.3 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

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V.Govindan

... Petitioner/Appellant

Vs.

1.The Presiding Officer,
Labour Court,
Vellore.

2.The Management of
Tamil Nadu State Transport Corporation,
[Villupuram Division-II] Ltd.,
Formerly known as Pattukottai Azhagiri
Transport Corporation,
Vellore-9.

... Respondents/Respondents

PRAYER: Appeal is filed under Clause 15 of the Letters Patent, praying to set aside the order dated 22.04.2013 made in W.P.No.28868 of 2003, by his Lordship Mr.Justice A.Arumughaswamy on the file of this Court, by allowing the present Writ Appeal.



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For Appellant : Mr.A.Gouthaman

For Respondents : Mr.M.Aswin for R2

Labour Court - R1

JUDGEMENT

(Judgement of this Court was delivered by M.S.RAMESH.J)

This Writ Appeal has been filed to set aside the order of a learned Single Judge of this Court made in W.P.No.28868 of 2003 dated 22.04.2013.

2. Through a charge memo dated 17.09.1996, the appellant herein was leveled charges to the effect that he had collected Rs.12.50/- from 6 passengers each and issued old bus tickets, thereby misappropriating a total sum of Rs.75/-, he was subjected to domestic enquiry. The enquiry officer, on the strength of the evidences let in before him, held that the charges against the appellant has been proved. Consequently, the Disciplinary Authority had passed a dismissal order dated 28.04.1997, terminating the appellant from his services.



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3. Challenging the order of dismissal, the appellant had raised an industrial dispute before the Labour Court, Vellore in I.D.No.339 of 1998, and through an order dated 12.12.2002, the Labour Court had recorded that the appellant had not disputed the fairness of the domestic enquiry and on appreciation of evidences as well as other materials before the enquiry officer, had rejected the claim of the workman. When the award of the dismissal was challenged before a learned Single Judge of this Court in W.P.No.28868 of 2003, the Writ Petition came to be dismissed on 22.04.2013. This order of dismissal is assailed before us.

4. Heard Mr.A.Gouthaman, learned counsel for the appellant, as well as Mr.M.Aswin, learned standing counsel appearing for the second respondent.

5.The learned counsel for the appellant submitted that the second respondent / Management had not produced proper evidences before the enquiry officer and no witnesses were examined but rather, the signatures of the witnesses were obtained on blank sheets, which were later filled in by the Management.



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6. Per contra, the learned counsel for the second respondent / Management would submit that due opportunities were extended to the appellant in the course of enquiry, and principles of natural justice were strictly adhered to. Since the misconduct of misappropriation is very serious, the Management has chosen to impose the maximum penalty on the appellant.

7. From a perusal of the award of the Labour Court, it would reveal that the appellant / workman himself had not questioned the fairness of the enquiry. In view of this, the Labour Court had also come to a conclusion that the enquiry was conducted in a fair and proper manner. If that is the case, the appellant herein is now estopped from raising issues regarding the procedures adopted by the enquiry officer, either before the learned Single Judge or before this Bench. Thus, he would be estopped from raising any grounds objecting the conduct of the enquiry.

8. This apart, none of the grounds raised by the appellant before the learned Single Judge, questions the perversity of the award of the Labour



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Court. On the other hand, all the grounds raised only touches upon the proceedings of the enquiry officer. Thus, in the absence of any perversity or other illegality, we do not find any infirmity in the order of the learned Single Judge.

9. While dismissing the Writ Petition, the learned Single Judge had also taken note of the fact that the workman was entitled to get terminal benefits for a period of 5 years when he had worked under the second respondent / Management till he was dismissed from service. We are also of the view that such terminal benefits can be disbursed to the appellant by the second respondent / Management.

10. In the light of the above findings and observations, this Writ Appeal stands dismissed. No Costs.

[M.S.R., J] [C.K., J]

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Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

Anu



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