



W.P.No.27389 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.27389 of 2021

J.Packiaraj

...Petitioner

Vs.

The Managing Director,
Metropolitan Transport Corporation,
(Chennai) Ltd.,
Pallavaram Illam,
Anna Salai, Chennai – 600 002.

..Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus after calling for the records relating to the award dated 15.02.2021 of the Principal Labour Court, Chennai passed in I.D.No.405 of 2015, quash the same and consequently direct the respondent to restore 6 months increment cut imposed to the petitioner as per the punishment order dated 19.04.1995 with other attendant benefits.

For petitioner : Mr.S.T.Varadarajulu
For respondent : Mr.C.Gauthamraj

ORDER

This writ petition has been filed to quash the award dated 15.02.2021 in I.D.No.405 of 2015 and direct the respondent to restore 6 months increment cut imposed to the petitioner as per the punishment



W.P.No.27389 of 2021

order dated 19.04.1995 with other attendant benefits.

WEB COPY

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

2.1. The petitioner has joined the Madras Transport Corporation (MTC) as a Conductor on 26.05.1983 at Tambaram depot and was not given regular duty and kept as a spare Conductor. A charge memo dated 23.08.1994 was issued alleging that there was a short payment of Rs.235/- for the period between 15.06.1994 and 14.07.1994 and explanation was called for from the petitioner. The petitioner submitted his explanations on 26.08.1994 and explained the reasons for shortage. Subsequently, punishment of increment cut for six months with cumulative effect was awarded. Challenging the said order, the petitioner has raised I.D.No.405 of 2015 and the same was dismissed by award dated 15.02.2021 by the Principal Labour Court. Aggrieved by the same, the petitioner has filed this writ petition.

3. The respondent transport Corporation has not filed any



W.P.No.27389 of 2021

counter affidavit.

WEB COPY

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

5. It is submitted by the learned counsel for the petitioner that for the punishment imposed on the petitioner *viz.*, punishment of increment cut for six months with cumulative effect, no enquiry was conducted in violation of the standing orders of the Transport Corporation and hence, submitted that the impugned orders of the Labour Court are required to be interfered with.

6. On the other hand, the learned counsel for the respondent corporation submitted that as per the standing orders there is no need for conducting any enquiry while imposing a minor punishment of postponement of increment for a period of six months with cumulative effect.

7. For proper appreciation of the issue involved in this case, the



standing orders applicable to the facts of the case are extracted hereunder:

WEB COPY

“26. PUNISHMENTS FOR

MISCONDUCT:

The following shall be prescribed as punishment that may be awarded to workmen.

(i) Censure (minor).

(ii) Fine Subject to the provision of payment wages Act (minor)

(iii) Stoppage of increment: Stoppage of increment with or without cumulative effect.

(iv) (a) Recovery from wages whole or part of any pecuniary loss, caused to the

Corporation by the negligence or breach of orders of the workers.

(b) Recovery from pay to the extent necessary of the monetary value equivalent

to the amount of increments ordered to be with-held, where such an order

Cannot be given effect to

(c) Recovery from pay to the extent necessary of the monetary value equivalent

to the amount of deduction to a lower stage in a time-scale ordered where such an order cannot be given effect to.

In cases of stoppage of increment with cumulative effect, the monetary value equivalent to three times the amount of increment ordered to be withheld may be recovered.

(v) (Demotion to lower post or lower grades). No workman shall be demoted to any post or grade lower than to which he was initially



WEB COPY



W.P.No.27389 of 2021

recruited under the Corporation.

(vi) Suspension.

(vii) Removal from service or discharge.

(viii) Dismissal from service.”

**27. THE FOLLOWING PROCEDURE
SHALL BE FOLLOWED BEFORE**

**AWARDING PUNISHMENT TO THE
WORKMAN:-**

i) The Corporation shall specify from time to time the authorities who are competent to impose the various punishments under the Standing Orders.

ii) Any higher authority than the one specified by the Corporation may impose any of the Punishments that the higher authority is competent to inflict.

iii) If in case a higher authority / has to impose any punishment or has inclined to impose any punishment, it shall act as a bar on the lower authority initiating fresh disciplinary Proceedings for the same misconduct.

iv) No punishment shall be imposed unless the workman is informed in writing of the alleged acts of omissions and commissions.

v) The workman shall be given a reasonable time not less than seven days to file a written statement to the charge (which charge notice shall contain the allegation based on which the charge has been framed)

vi) a. When the charge has not been admitted an enquiry shall be conducted before Awarding punishments except in case of punishments like Censure, fine etc.,



WEB COPY



W.P.No.27389 of 2021

b. No such enquiry will be necessary in cases involving minor punishments defined in item (i) and (ii) of S.P.26.

vii) While conducting an enquiry the following procedure shall be followed:-

a) Workman shall be given reasonable notice of the date and time and venue of the enquiry.

b) The oral statement of the workman if any at the time of enquiry shall be reduced in writing.

c) The witnesses to prove the acts of omissions and commissions shall be examined in the presence of the workman and workman shall be given an opportunity to cross-examine the witnesses.. A workman shall be entitled to avail the assistance of a co-workman or any official of his union, to defend him in such enquiry.

d) The workman shall be given a reasonable opportunity to defend himself and to examine witnesses, if any, on his behalf.

e) The report of the enquiry officer, when the enquiry officer is different from the punishing authority shall be furnished to the workman.

f) In awarding punishment, the punishing authority shall take into account the gravity of the acts of commission and omissions, the previous records of the workman and or any other extenuating or aggravating circumstances that may exist.

g) If a workman who is suspended, is after enquiry dismissed or removed from service by the Management such order should be given effect to only from the date of issue of order and not retrospectively from the date of suspension.

h) A copy of the final orders in & disciplinary case shall be supplied to the workman. if the order passed is appealable, it



WEB COPY



W.P.No.27389 of 2021

should be indicated in the order as to the authority to whom the appeal shall lie and time within which such an appeal shall be filed. The appellate authority may condone delays, if any, in preferring the

Appeal after satisfying himself that the reasons for the delays are genuine.”

8. On perusal of the above two paragraphs of the standing orders , it is clear that while awarding punishment to the workmen for alleged mis conduct, no enquiry is necessary in case of imposing minor punishment as defined in item 1 and 2 of the standing orders of S.P.26. However, in respect of item 3 of S.P.26 it is clearly mentioned that stoppage of increment with or without cumulative effect.

9. Therefore, without conducting any enquiry punishment as mentioned in item 1 and 2 of S.P.26 can be imposed but punishment in item 3 of S.P.26 cannot be imposed without conducting enquiry. The management is expected to conduct enquiry and after findings of the enquiry report punishment has to be imposed as specified in item 3 of S.P.26. However, the same has not been followed in the instant case. Therefore, imposing punishment of stoppage of increment for a period of 6 months with cumulative is against the standing orders of the transport Corporation. The Labour Court should not have gone to such conclusion



W.P.No.27389 of 2021

and should have dismissed the industrial dispute. Therefore, the award of the labour Court is erroneous and has to be intervened.

10. Accordingly, this writ petition is allowed setting aside the impugned award dated 15.02.2021 passed by the Principal Labour Court in I.D.no.405 of 2015. Since the workman is stated to have been retired, the respondent is directed to revise the pay of the workman/petitioner and pay the arrears, if any, as quickly as possible. No costs.

13.06.2024

vca

Internet : Yes/No
Index : Yes/No
Citation : Yes/No

To,
The Managing Director,
Metropolitan Transport Corporation,
(Chennai) Ltd.,
Pallavaram Illam,
Anna Salai, Chennai – 600 002.

Dr.D.NAGARJUN,J.

Vca



WEB COPY



W.P.No.27389 of 2021

W.P.No.27389 of 2021

13.06.2024