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W.A.No.2872 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No. 2872 of 2023
and
C.M.P.No.23881 of 2023

The Management,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram,
Rep. by its General Manager.

...Appellant

Vs.

1.R.Arunachalam

2.The Presiding Officer,
Labour Court,
Cuddalore.

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 14.12.2022 passed in W.P.No.30622 of 2014.

For Appellant	: Mr.R.Neelakandan, Additional Advocate General
For 1 st Respondent	: Mr.R.Muralidharan



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J U D G M E N T

(Judgment of the Court was delivered by ***R.SUBRAMANIAN, J.***)

The Management is on appeal aggrieved by the order of the writ Court confirming the award of the labour Court setting aside the punishment imposed on the workman and directing reinstatement with back wages and other attendant benefits.

2. The charge against the workman was un-authorized absence for a period of 36 days between 04.06.2008 and 09.07.2008. The charge memo was issued on 11.07.2008 and the enquiry officer found that the charges are proved. The Management accepted the report of the enquiry Officer and imposed a punishment of dismissal from service.

3. The workman raised an industrial dispute, which was numbered as I.D.No.39 of 2012. The labour Court upon examination of the evidence on record concluded that the Management has not satisfactorily proved the charge. The labour Court after referring to the evidence of workman as W.W.1, wherein, he has specifically deposed that even though he used to go to the Controller's Office for being assigned work, the controller will not



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assign him work and mark him as absent, has found that such evidence has not been controverted even during the cross-examination. On the said finding, the labour Court concluded that the charge of un-authorized absence has not been established and directed reinstatement with all attendant benefits. The writ petition filed by the Management was also dismissed, leading to this writ appeal.

4. We had heard Mr.R.Neelakandan, learned Additional Advocate General appearing for the appellant Management and Mr.R.Muralidharan, learned counsel appearing for the 1st respondent workman.

5. Mr.R.Neelakandan, learned Additional Advocate General appearing for the appellant Management would vehemently contend that the appellant himself has accepted the charge of un-authorized absence during the enquiry proceedings and therefore, the labour Court was not justified in arriving at the finding that the charge was not established. He would also point out that even after reinstatement was permitted by the labour Court, the workman was irregular in attending the work and he has even written saying that as per the order of this Court he will be entitled to only 17B wages and he cannot be asked to work.



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6. Contending contra Mr.R.Muralidharan, learned counsel appearing for the 1st respondent workman would submit that the same position that was prevailing before the award of the labour Court continues even thereafter. Whenever he went to work he was not allowed to work. Therefore, the Management has not complied with the award of the labour Court or that of the Writ Court.

7. We have considered the rival submissions.

8. As regards the absence after the interim order was passed by this Court directing payment of 17B wages and after order in Contempt petition, wherein, it was admitted that the workman has been reinstated, it is for the Management to take appropriate action as open to it under law.

9. On the materials available, we find that the labour Court has reached a plausible conclusion that the charge has not been established and the said conclusion has been confirmed by the writ Court after re-considering the evidence on record. The scope for interference, under Article 226 of the Constitution of India, with the award of the labour Court is very minimal. When the labour Court and the writ Court have come to a



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particular conclusion based on the evidence on record, we do not think we can substitute our opinion to that of the labour Court or the learned Single Judge.

10. The Writ Appeal therefore fails and it is accordingly dismissed.

No costs. Consequently, the connected miscellaneous petition is closed. It will be open to the Management to take action against the workman, if he had continued to be absent or if he is guilty of any other charges after reinstatement on 19.02.2016.

(R.S.M., J.) (C.K., J.)
22.11.2024

dsa

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Speaking order



To

The Presiding Officer,
Labour Court,
Cuddalore.

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R.SUBRAMANIAN, J.
and
C.KUMARAPPAN, J.

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