



WEB COPY



W.P.No.28111 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.28111 of 2019
and
W.M.P.No.27740 of 2019

The Management,
Managara Pokuvarthu Kazhagam,
Pallavan Illam, Anna Salai,
Chennai – 600 002.

... Petitioner

Vs

The General Secretary,
Arasagam Pokuvarthu Uzhliyar Sangam (C.I.T.U),
No.2, Pallavan Salai,
Chennai – 600 002.

... Respondent

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the order passed in I.D.No.135 of 2018 dated 25.06.2019 on the file of the II Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.C.Gauthamaraj

For Respondent : No appearance



W.P.No.28111 of 2019

ORDER

WEB COPY

This Writ petition has been filed by the petitioner seeking to quash the order passed in I.D.No.135 of 2018 dated 25.06.2019 on the file of the II Additional Labour Court, Chennai.

2. On behalf of one Sivakumar, Driver and one Deivasigamani, Conductor attached with T.Nagar Depot, the respondent union raised a dispute in I.D.No.135 of 2018 before the II Additional Labour Court, Chennai. The said driver and conductor will be referred to as the workmen and the petitioner will be referred to as the petitioner/management.

3. On 13.10.2013, when the workmen as driver and conductor of the bus route No.13E, which was plying from T.Nagar to Triplicane, were on duty, a passenger tried to board the bus through the front entrance, slipped from the bus and was grievously injured. On 01.11.2013, a charge memo was issued to the workmen. Since no explanation was submitted by them to the charge memo, domestic enquiry was conducted. On 27.10.2014, the Enquiry Officer submitted his report holding that the charges were proved against the workmen. On



W.P.No.28111 of 2019

11.12.2014, the petitioner/management caused a second show cause notice proposing a punishment of postponement of annual increment for two years with cumulative effect. Eventhough no explanation was given to the second show cause notice by the workmen, the petitioner/management modified the punishment from postponement of annual increment for two years with cumulative effect into one of stoppage of increment for one year with cumulative effect. Aggrieved by the punishment imposed by the petitioner/management, the respondent union raised a dispute in I.D.No.135 of 2018 before the II Additional Labour Court, Chennai. The Labour Court, on the basis of the evidence on record, found that the enquiry was properly and fairly conducted. The Labour Court on its finding that the punishment imposed was not commensurate to the misconduct committed by the workmen interfered with the punishment imposed by the petitioner/management. The Labour Court hence modified the punishment from stoppage of increment for one year with cumulative effect to stoppage of increment for six months with cumulative effect. Aggrieved by the award passed by the Labour Court, the petitioner/management has filed the above writ petition.



W.P.No.28111 of 2019

4. The learned counsel for the petitioner submitted that the Labour Court having found that the enquiry was properly and fairly conducted erred in interfering with the punishment imposed by the petitioner/management. The counsel submitted that the jurisdiction to interfere with the punishment under Section 11-A of the I.D. Act was not available to the Labour Court as the punishment was not one of discharge or dismissal.

5. Heard the learned counsel appearing for the petitioner and perused the materials placed on record.

6. It is seen that the Labour Court on the facts of the case found that the enquiry was properly and fairly conducted and in the absence of allegations of unfair labour practice or victimisation, the Labour Court ought not to have interfered with the punishment imposed by the petitioner/management. The jurisdiction to interfere with the punishment under Section 11-A in the aforesaid circumstance did not arise as the punishment imposed was not dismissal or discharge. Useful reference in this regard can be made to the judgment in the case of ***The General Secretary, South Indian Cashew Factories Workers' Union Vs.***



W.P.No.28111 of 2019

The Managing Director, Kerala State Cashew Development Corporation Ltd. &

Ors. reported in **2006 (5) SCC 201**. It is further relevant to note that the petitioner/management despite the fact that the delinquent workmen did not submit any explanation either to the charge sheet or to the second show cause notice modified the original proposed punishment of stoppage of increment for two years with cumulative effect to one of stoppage of increment for one year with cumulative effect. It is trite that the imposition of punishment is the prerogative of the management and in the present case, the petitioner/management having reduced the punishment originally proposed, the Labour Court, in my view ought not to have interfered with the same.

7. Accordingly, the award of the II Additional Labour Court, Chennai in I.D.No.135 of 2018 dated 25.06.2019 is set aside and the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

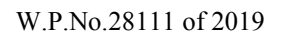
13.02.2024

Index : Yes / No

Speaking Order / Non-speaking order

Neutral Citation Case : Yes / No

sp



sp

The II Additional Labour Court, Chennai.

W.P.No.28111 of 2019

13.02.2024