



W.P.No.27453 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.27453 of 2024 and
W.M.P.No.29955 of 2024

The Management,
Tamil Nadu State Transport
Corporation (Salem) Limited,
No.12, Ramakrishna Road,
Salem-7.

... Petitioner

Vs.

R.Murugan

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to the order dated 16.02.2023 passed by the Presiding Officer, Labour Court, Salem in I.D.No.99 of 2016 and quash the same.

For Petitioner : Mr.K.Raja

ORDER

This Writ Petition has been filed seeking to issue a Writ of Certiorari, to call for the records pertaining to the order dated 16.02.2023



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passed by the Presiding Officer, Labour Court, Salem in I.D.No.99 of 2016 and quash the same.

2. Heard Mr.K.Raja, learned counsel for the petitioner and perused the materials available on record.

3. In an industrial dispute raised by the respondent, challenging the order of dismissal, the Labour Court was pleased to pass an order by setting aside the order of dismissal and by issuing a direction for reinstatement with 25% backwages. The allegation against the respondent is that the respondent was working as a Driver in the petitioner Corporation. On 08.02.2013, when he was working in the Erumapalayam I branch of petitioner Corporation, the Branch Controller was allotting duty to the drivers and conductors. The respondent asked for a week off, but the Branch Controller has stated that he did not have proper attendance particulars in order to consider his eligibility for granting a week off. This has resulted in wordy quarrel, in which, it is alleged that the respondent has used unparliamentary words in front of all other



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drivers and conductors against the Branch Controller. After given the charge memo for misconduct, the respondent was subjected to domestic enquiry. In the conclusion of the domestic enquiry, the guilt against the respondent was proved. Thereafter, he was imposed with the punishment of dismissal from service.

4. The learned counsel for the petitioner submitted that the order of dismissal has been passed as early as on 31.07.2014. The respondent has chosen to raise the industrial dispute only after two years. The Presiding Officer did not consider the inordinate delay and laches on the part of the respondent while passing an award in his favour. He also submitted that the respondent has been a frequent absentee and for exhibiting the very same conduct on several occasions, he has been given with various punishments and that also went out of the sight of the Presiding Officer. The further contention of the petitioner is that the Labour Court has only appreciated the single contradiction in the cross examination of M.W.1 and M.W.2 of the Management witnesses, but did not consider the issue in a comprehensive manner while passing the impugned award.



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5. It is true that the respondent has been given with several punishments and that has been tabulated in the impugned order itself. He has been a frequent absentee and on one previous occasion, he was also warned for quarrelling with the other colleagues and employees. In fact, the respondent has been imposed with 68 punishment including a warning. Despite listing out all those antecedents, the learned Presiding Officer of the Labour Court got convinced with the evidence presented from the Management side witnesses, wherein, it is admitted by those witnesses that the Management side documents M.W.3 and M.W.4 did not contain the name of the person who was the time keeper at the relevant point of time. In fact, the persons who had given those witnesses were not the signatory of those documents. Hence, the Labour Court was right in appreciating the same.

6. When the fundamental fact that the person against whom certain allegations were made, were not proved at the relevant point of time, the Presiding Officer has got no other option except to arrive at the



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conclusion that the evidence available on record does not prove the charge against the respondent. Having rendered such a finding, the natural corollary is to set aside the order of dismissal. It may be true that the respondent is a person who was tainted with frequent delinquency. However, in the instant case, the evidence on record did not serve in favour of the Management and that has resulted in the impugned award. Hence, I find no infirmity in the award of the Labour Court and no reasonable grounds were made out for entertaining this Writ Petition.

7. In view of the above stated reasons, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
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R.N.MANJULA, J.

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