



WEB COPY



W.A.No. 531 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Writ Appeal No.531 of 2024

P.Saravanan

Vs.

... Appellant

1.The Managing Director,
Tamilnadu State Transport Corporation,
(Villupuram) Ltd.,
Cuddalore Division Officer,
Cuddalore.

2.The Presiding Officer,
Labour Court,
Cuddalore.

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.28721 of 2017 dated 22.08.2023.

For Appellant : Mr.R.Muralidharan

For R1 : Mr.M.Aswin



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J U D G M E N T

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(Judgment of the Court delivered by S.M.SUBRAMANIAM,J.)

The intra-Court appeal on hand has been instituted against the Order dated 22.08.2023 passed in W.P.No.28721 of 2017.

2. The writ petitioner is the appellant before us. The appellant was holding the post of Conductor in the respondent/Transport Corporation. He was dismissed from service on 31.07.2015, on the ground that the charge relating to misappropriation had been proved against the appellant. The Writ Court dealt with the correctness of the award passed in I.D.No.09 of 2016 dated 31.07.2017. The Labour Court also dismissed the dispute raised by the appellant. The Writ Court while considering the issues made a finding that the appellant himself admitted the guilt before the Enquiry Officer during the cross-examination and the same were marked as Ex.M3 and Ex.M5 before the Labour Court. The appellant further suffered 19 punishments for misappropriation and citing these reasons, the Writ Court dismissed the petition by confirming the award passed by the Labour Court.



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3. Mr.R.Muralidharan, learned Counsel for the appellant would submit that the complainant one Mr.A.Suresh was not examined. Mr.A.Suresh was a passenger from whom the ticket cost was misappropriated. When the complainant was not examined then the appellant is to be exonerated. In support of the said contention, the learned Counsel for the appellant relied on the Judgment of the Hon'ble Supreme Court of India in the case of ***Jorsingh Govind Vanjari Vs. Divisional Controller, M.S.R.T.C, Jalgaon Division, Jalgaon*** reported in ***AIR 2017 Supreme Court 57***.

4. Careful reading of the above Judgment would reveal that the facts before the Hon'ble Supreme Court are entirely different. In the present case, it is not as if no opportunity was provided to the appellant to cross examine the witnesses. The Enquiry proceedings dated 08.06.2015 reveals that the appellant himself opted not to cross examine and he has made an application before the Enquiry Officer that the statement given by him may be taken for further consideration. That being the deposition of the appellant before the Enquiry Officer, now he cannot turn around and plead before this Court that he was prevented from cross examining the witnesses.

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5. We are of the considered opinion that mere non examination of the complainant who is a passenger in the bus, would not vitiate the entire disciplinary proceedings. The domestic enquiry in a departmental disciplinary proceedings cannot be compared with the criminal trial. Preponderance of probabilities are sufficient to punish an employee under the Discipline and Appeal Rules. Therefore, non examination of the complainant who is a passenger in the bus would not be a ground to drop the departmental disciplinary proceedings. If the management could able to establish the guilt through documents and evidences, which would be sufficient to punish an employee for the proved misconducts. Therefore, the grounds raised in the present Writ Appeal deserves no merit consideration.

6. Thus, the order passed by the Writ Court stands confirmed. Consequently, the Writ Appeal stands dismissed. No costs.

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[S.M.S.J.] [K.R.S.J.]
19.02.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
veda

To

1.The Managing Director,
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(Villupuram) Ltd.,
Cuddalore Division Officer,
Cuddalore.

2.The Presiding Officer,
Labour Court,
Cuddalore.

S.M.SUBRAMANIAM,J.
AND
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W.A.No.531 of 2024

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