



WEB COPY



W.A.No.3971 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.03.2024

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

**Writ Appeal No.3971 of 2019**  
**and**  
**C.M.P.No.24876 of 2019**

The Management,  
Tamil Nadu State Transport Corporation  
(Coimbatore Division-I) Ltd.,  
No.37, Mettupalayam Salai,  
Coimbatore – 641 043 represented by its  
Managing Director.

... Appellant

Vs.

1.The Joint Commissioner of Labour,  
(Conciliation), D.M.s.Compound,  
Teynampet, Chennai – 600 018.

2.S.Karthikeyan

... Respondents

**Prayer:** Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 15.07.2013 in W.P.No.1358 of 2010.

|               |                                                         |
|---------------|---------------------------------------------------------|
| For Appellant | : Mr.A.Sundaravadhanam                                  |
| For R1        | : Mrs.P.Rajarajeswari<br>Government Advocate            |
| For R2        | : Mr.K.M.Ramesh<br>Senior Counsel<br>for Mr.V.Subramani |



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## **J U D G M E N T**

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

The present writ appeal has been instituted challenging the writ order dated 15.07.2013 passed in W.P.No.1358 of 2010.

2. The writ petitioner/Tamil Nadu State Transport Corporation (Coimbatore Division-I) Ltd., is the appellant before us.

3. The 2<sup>nd</sup> respondent/workmen is working as Conductor in the Appellant/Corporation. With reference to the allegation of non-issuance of ticket to the passenger after collecting fare, a Charge Memorandum has been issued to the workmen. Domestic inquiry was conducted and the punishment of dismissal was imposed on the 2<sup>nd</sup> respondent/workmen.

4. The appellant/Management filed an approval petition under Section 33 (2) (b) of the Industrial Disputes Act, 1947. The Authority competent rejected the approval petition. Thus, the Management preferred a writ petition challenging the said rejection order. The Writ Court dismissed



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the writ petition mainly on the ground that the aspect of 'case bag being not checked to find out excess cash' goes to the root of the subject matter in issue, in the considering opinion of this Court. As a matter of fact, the omission in this regard is certainly a favourable circumstance in favour of the 2<sup>nd</sup> respondent/workmen.

5. The writ court mainly found that the cash bag was not checked to find out the excess cash allegedly collected by the workmen from the passenger without issuing ticket. Since the vital aspect relating to charge has not been approved, the writ court also dismissed the writ petition.

6. Mr.A.Sundaravadhanam, learned Counsel for the appellant/management would mainly contend that the 2<sup>nd</sup> respondent/workmen is habitually committing such misconduct of collecting ticket fare and not issuing ticket to the passengers. Therefore, no lenient view can be taken by the management.

7. Mr.K.M.Ramesh, learned Senior Counsel appearing on behalf of the 2<sup>nd</sup> respondent/workmen would oppose by stating that the vital part of the



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allegation has not been established and both the Authority under I.D.Act as well as the Writ Court has consistently held that the cash bag being not checked to find out the excess cash, the charges are not held proved. Therefore, the findings both by the Authority under the I.D. Act as well as the writ court is concurrent and consequently, the writ appeal is to be rejected.

8. It is brought to the notice of this Court that the 2<sup>nd</sup> respondent/workmen is continuing in service and performing his duty as conductor. No doubt, the workmen is bound to follow the rules and regulations of the Corporation. Once the ticket fare is collected, the tickets are to be issued to the passengers instantaneously. However, in the present case, the allegations are not established against the workmen. In view of the fact that the said vital ground was considered both by the Authority under the I.D. Act and the writ court, we are not inclined to interfere with the orders.

9. However, it is found that the allegation of lapses are established. During the domestic enquiry, the workmen himself admitted that the tickets were not issued to the passengers. In respect of the lapses, which was admitted during the course of domestic enquiry, the management is entitled



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to impose some punishment. However, the major punishment of dismissal, we find it disproportionate. Therefore, we are inclined to modify the punishment to that of stoppage of one increment for two years without cumulative effect. The modified punishment has been imposed in view of the lapses regarding non-issuance of ticket to the passenger, which was established before the domestic enquiry.

10. With the above modification in the order of punishment, the Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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

**26.03.2024**

(1/2)

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

1. The Joint Commissioner of Labour,  
(Conciliation), D.M.s.Compound,  
Teynampet, Chennai – 600 018.



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