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W.P.No.31843 of 2018
and W.M.P.No.37083 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

THE HONOURABLE MRS. JUSTICE N.MALA

W.P.No.31843 of 2018
and
W.M.P.No.37083 of 2018

1.The Branch Manager,
K.K.Nagar Depot,
Metropolitan Transport Corporation,
Anna Salai, Kalaingar Nagar,
Chennai – 600 078.

2.The Managing Director,
Metropolitan Transport Corporation,
No.1, Pallavan Illam,
Anna Salai, Chennai – 600 002.

... Petitioners

Vs.

General Secretary,
State Transport Employees Union,
Regn.No.73 / MDS (CITU),
No.2, Pallavan Salai,
Kalaingar Valagam,
Chennai – 600 002.

... Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the orders passed in I.D.No.277/2013 dated 07.08.2018 on the file of the I Additional Labour Court, Chennai and quash the same.



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For Petitioners : Mr.C.Gauthamaraj

Standing Counsel

For Respondent : Mr.S.T.Varadarajulu

ORDER

Challenge in this writ petition is made to the Award dated 07.08.2018 in I.D.No.277/2013 passed by the I Additional Labour Court, Chennai.

2.The respondent herein filed I.D.No.277/2013 on behalf of four employees, namely, Kaliamurthy, Manoharan, M.Karunanidhi and P.Balakrishnan. According to the respondent, M.Karunanidhi was working as Conductor in the petitioner Corporation and the other three were working as Drivers.

2.1. While C.Manoharan was working as driver in the petitioner Corporation he was allotted duty in Route No.37. When he asked for certain details of the buses in the said route with the Engineer, the Engineer refused to give the particulars and so he informed the same to the higher officials of the depot. The Engineer also refused to give work and further marked leave in the attendance register even though he



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reported for work. Leave was marked in the attendance register on 17.05.2009 and 18.05.2009 and so he complained to the General Manager, but no action was taken.

2.2.Kaliamurthy who was working as a driver in the petitioner Corporation was allotted route No.11. When he started work, he was ordered to meet the petitioners and then continue to work. When he met the petitioners, they threatened him, shouted and asked him to leave the place. He refused to work on 12th and 13th. Attendance was not marked on those days. He complained on 11.11.2009, but no action was taken.

2.3. M.Karunanidhi was working as conductor in the petitioner Corporation. He was present on 22.10.2009 and 23.10.2009 but no attendance was marked on those days.

2.4. P.Balakrishnan who was working as driver in the petitioner Corporation, was transferred due to vengeance and ulterior motive.

3.Aggrieved by the acts of the petitioners, the respondent union filed I.D.No.277/2013 before the I Additional Labour Court, Chennai.



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4.The petitioner Corporation filed a counter wherein it was stated that there was a Certified Standing Order signed by both employees union and Management. As per Section 25(vi) of the Certified Standing Order the Management had every right to terminate the services of the respondent's who continuously absented from duty. Due to unauthorized absence of the respondent's, there was revenue loss. Based on Section 25(xiii), a charge memo was issued to the respondents. The respondents submitted their explanations and a domestic enquiry was conducted in a fair and proper manner and a report was filed holding that the charges were proved. The transfer of driver Balakrishnan was purely on administrative grounds and not on vengeance as pleaded.

5.On the side of the respondent union, W.W.1 was examined and Exs.W1 to Ex.W8 were marked. No witness was examined on the side of the petitioner Corporation and no documents were marked.

6.The Labour Court after analysing the evidence on record held that the demand of the union was justified and therefore directed the petitioner to treat the alleged leave periods as duty and also to pay all the



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benefits payable to the respondents. The petitioner was further directed to post the four employees in the same place. Aggrieved by the said Award of the Labour Court, the petitioner Corporation has filed the present writ petition.

7.Mr.C.Gauthamaraj, the learned Standing Counsel for the petitioner Corporation submitted that only to escape from the disciplinary proceedings, the dispute was raised. The counsel submitted that the Labour Court failed to consider the oral and documentary evidence in proper perspective. He further submitted that the Labour Court wrongly understood that the petitioner Corporation due to vengeance had marked the duty period as leave.

8.Mr.S.T.Varadarajulu, learned counsel for the respondent submitted that the Labour Court had passed a well reasoned order after analysing all the aspects of the case and therefore, no interference is warranted by this Court.

9. Heard both counsels and perused the records.



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10.The dispute is with reference to marking of absence for the drivers Manoharan, Karunanidhi and Kaliamurthy inspite of their reporting for duty and the transfer of Balakrishnan. The Labour Court found fault with the petitioner Corporation for not replying to complaints filed by the respondents questioning the marking of leave and transfer. I find absolutely no impropriety in the Labour Court's findings on fact as it is based on the documentary evidence filed by the respondents. In the absence of any evidence filed by the petitioner Corporation to substantiate its claim, no fault can be found with the Labour Court for relying on the respondents documents. Hence, I find absolutely no perversity in the findings of the Labour Court. In view of the above discussions, the Award of the Labour Court is confirmed and the writ petition is dismissed. There shall be no order as to costs. Consequently, connected writ miscellaneous petition is closed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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N.MALA, J.
mtl

To

General Secretary,
State Transport Employees Union,
Regn.No.73 / MDS (CITU),
No.2, Pallavan Salai,
Kalaiaranga Valagam,
Chennai – 600 002.

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