



WP.(MD).No.3190 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 04.04.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.3190 of 2021
and
W.M.P.(MD)No.2527 of 2021

The Management,
Tamil Nadu State Transport Corporation (Tirunelveli) Limited,
Ranithottam,
Nagercoil,
Kanyakumari District. ... Petitioner

Vs.

General Secretary,
Tamil Nadu State Transport Employees Union 4KKM (CITU),
Ranithottam,
Nagercoil,
Kanyakumari District. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the Labour Court, Tirunelveli dated 08.11.2019 passed in I.D.No.77 of 2017.

For Petitioner	: Mr.R.Rajamohan
For Respondent	: No Appearance



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ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned order passed by the Labour Court, Tirunelveli passed in I.D.No.77 of 2017 dated 08.11.2019.

2.The learned counsel appearing for the petitioner submitted that the charges were framed as against the delinquent namely, Ashokan for not stopping the bus in R.R.Nagar bus stop for boarding passengers on the ground that the driver had violated boarding and driving rules and caused revenue loss to the Corporation and had earned bad name among public and passengers. As against the same, the said delinquent was placed under suspension and charges were framed against him on 25.05.2009. Having given full opportunity to attend the enquiry, the punishment of stoppage of increment for one year with cumulative effect was passed against the delinquent and the explanation was also sought for from the delinquent and show cause notice dated 26.04.2010 was served. On receiving his explanation on 14.09.2011, not being satisfied with the same, the enquiry officer



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upheld the charges which were proved as against the delinquent dated 12.10.2011. As against the said punishment, the delinquent had preferred I.D.No.77 of 2017 on the file of the Labour Court, Tirunelveli after a period of six years. The learned Labour Court after trial, had set aside the punishment imposed by the petitioner Corporation as against the delinquent, thereby, partly allowing the said I.D. Without going into the merits of the case, without application of mind, the learned Labour Court has passed the said order and the same is liable to be set aside.

3.Despite the name of the respondent had been printed, none appeared on behalf of the respondent.

4.Heard the learned counsel appearing for the petitioner and carefully perused the entire materials available on record.

5.The Hon'ble Apex Court in the case of ***J.D.Jain v. State Bank of India***, reported in ***1982 AIR 673*** has held that, "*in a domestic enquiry, guilt need not be established beyond reasonable doubt that proof of misconduct would be sufficient and further the law is well settled that proof of evidence are not admissible in the domestic enquiry and the punishment can be imposed by the*



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employer on preponderance of probabilities. However, the learned Labour Court without going into details of trial has concluded that delinquency has not been proved beyond reasonable doubt. In the instance case, the charges has been framed as against the delinquent for the purpose of delinquent attitude of not stopping the bus in the bus stop for boarding the passengers. The nature of the duty for which the delinquent warrants stopping the bus in each and every bus stop for every passengers for the purpose of boarding passengers facilitating the Corporation to improve the revenue. However, the delinquent had wantonly failed to stop the bus for which he was engaged in bus. Such an act would certainly amount to dereliction of duty and the same was not punished appropriately.”

6.In view of the same, this Court is of the considered view that the learned Labour Court ought not to have interfered with the punishment, which is not shockingly disproportionate.

7.Hence, this Court hereby set aside the order passed by the learned Labour Court in I.D.No.77 of 2017 dated 08.11.2019. Accordingly, this Writ Petition stands allowed. There shall be no



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order as to costs. Consequently connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

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