



WP(MD) No.20776 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **15.07.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) No.20776 of 2023

and

W.M.P.(MD)Nos.17194 and 17195 of 2024

The Management,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Division,
Ranithottam, Nagercoil,
Kanyakumari District.

... Petitioner

Vs.

General Secretary,
Tamil Nadu State Transport Employees
Union 176/84/KKM,
Ranithottam, Nagercoil,
Kanyakumari District,
For S.Devadoss,
Employee,
(Employee no.7275)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned order dated 30.11.2021 in I.D.No.35 of 2018 on the file of the Labour Court, Tirunelveli and quash the same.



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For Petitioner : Mr.D.Jebaraj
For Respondents : Mr.R.Murugan
Standing Counsel

ORDER

This writ petition has been filed challenging order dated 30.11.2021 in I.D.No.35 of 2018 on the file of the Labour Court, Tirunelveli.

2.Heard Mr.D.Jebaraj, learned counsel for the petitioner and Mr.R.Murugan, learned Standing Counsel for the respondents.

3.The respondent is working as a Conductor in the petitioner corporation. He was imposed with the punishment of stoppage of increment for a period of three years with cumulative effect on the allegation that the petitioner had re-sold the tickets to the passengers. Aggrieved over the said punishment order, the employee has challenged the same by way of filing I.D.No.35 of 2018 before the Labour Court. The Labour Court had set aside the order of punishment of stoppage of increment. Challenging the same, the Corporation has filed the present writ petition.



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4.The learned counsel for the petitioner submitted that the respondent had committed serious misconduct of reselling the tickets that were already sold and the Labour Court has taken a less serious view in setting aside the order of punishment imposed on the respondent. It is further submitted that the Presiding Officer of the Labour Court without appreciating the evidence in an appropriate manner, had allowed the Industrial Dispute filed by the respondent.

5.The respondent was on duty as Conductor on the alleged date of occurrence. The Checking Inspector had entered had found the passenger travelling with an invalid ticket, at the time of checking. When the Checking Inspector enquired the passenger, he had stated that he has been sold with the ticket of the old trip. Based on the same, the punishment was imposed.

6.It is seen from the award of the Labour Court that the Presiding Officer has observed that during the disciplinary proceedings, the witness examined on the side of the Management has admitted that it is possible that the passenger had falsely stated that the conductor had issued the tickets, which belonged to the earlier trip.



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6. After appreciating the materials on record, the learned

Presiding Officer of the Labour Court, Tirunelveli has observed that the passenger could have falsely stated that the Conductor had given the false tickets in order to avoid paying fine. It is further observed that the Enquiry Officer had discredited the statement of the employee without giving any due consideration. The relevant portion of the award passed by the Labour Court is extracted hereunder for easy and ready reference:

“11) In this case, a perusal of the departmental proceedings and the report submitted by the Enquiry Officer would go to show that on the side of the management, the Checking Inspector alone was examined and the alleged passenger who was a root cause for the dispute has not been examined as he refused to appear for giving evidence for the management. It is also seen from the cross-examination done on the side of the employee that the management witness has admitted that it is possible that the said passenger may have stated falsely that the conductor had issued the ticket belonging to earlier trip. Further, on the side of the employee a co-passenger alleged to have been seated next to the passenger who is a root cause for the dispute was examined as an employee side witness has clearly stated that the said passenger had not purchased any ticket when asked by the conductor and the said passenger said that the passenger in front will buy ticket for him and later when the Checking Inspector insisted in imposing fine, the passenger in order to



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avoid paying fine, falsely stated that as though the conductor has given a ticket which was used for earlier trip and that the Inspector obtained his signature in a blank paper and the said passenger never took any ticket or handed over money for purchase of ticket to the conductor. Further the employee gave a detailed evidence as to what happened on that day to support his case. But the Enquiry Officer sought to discredit the evidence adduced on the side of the employee mainly relying upon the written statement alleged to have been given by the said passenger. However, both the employee as well as the witness examined on his side has spoken to about obtaining of signature in the blank paper from the said passenger by the Inspector and when such evidence is available on record, merely relying upon the said statement to find the charges proved against the employee is not correct in accordance with law. Therefore, the finding of the Enquiry Officer is vitiated and the consequent punishment imposed based upon the said enquiry report by withholding three increments with cumulative effect against the petitioner is also vitiated.”

7. Since the allegations were made against the respondent on the premise and surmise and the enquiry proceedings also did not lead any concrete evidence against the respondent, the decision arrived at by the Labour Court in allowing the Industrial Dispute filed by the respondent, does not suffer from any illegality or irregularity.



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8.For the reasons stated above, I do not find any *prima facie* reason to interfere with the order passed by the Labour Court. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

15.07.2024

Index : Yes / No
NCC : Yes / No
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To

General Secretary,
Tamil Nadu State Transport Employees
Union 176/84/KKM,
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R.N.MANJULA, J.

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