



WP(MD)No.12237 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 18.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.12237 of 2016
and
WMP(MD)Nos.9326 and 9327 of 2016**

Rukmaniammal (died)

Srini Thustu

... Petitioner

**(Petitioner was substituted vide order
dated 08.12.2023 vide WMP(MD)No.
20922 of 2023)**

Vs

**1.The Presiding Officer,
Labour Court,
Cuddalore.**

2.Ramamoothy

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records pertaining to the impugned order passed by the 1st respondent in ID.No.93 of 2002 dated 29.10.2023 and quash the same.

For Petitioners : Mr.B.Jameel Arasu

For Respondent : Mr.R.Maheswaran

No.2

Respondent No.1 : Court



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ORDER

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This writ petition has been filed as against the order passed by the Labour Court, Cuddalore in ID.No.93 of 2002 dated 29.10.2013. This industrial dispute was raised by the 2nd respondent as against the petitioner management that he was orally terminated from service with effect from 15.12.2001.

2.The case of the 2nd respondent is that he was working in the writ petitioner's transport corporation from the year 1974. The management according to him was changed in the year 1984. The 2nd respondent conductor was permitted to continue his services. However his continuity of service from the year 1974 was not provided. Therefore he insisted for issuance of a certificate that he was working from 1974. Hence he was orally terminated from service on 15.12.2001. While so he has raised an industrial dispute under Section 2(A)(1) of the Industrial Disputes Act, 1947 before the 1st respondent Labour Court, Cuddalore.

3.Since the management was operating its services from Thanjavur, the management has filed this writ petition before this Court as against the order of the Labour Court, Cuddalore.



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4.The learned Counsel for the petitioner has assailed the impugned order on the ground that the Labour Court passed an order of reinstatement of the workman with back wages, without considering the offence committed by the 2nd respondent workman. According to the learned Counsel for the petitioner, the 2nd respondent has collected the ticket fare from the passengers but has not issued tickets to a few passengers and thereby he committed misappropriation of the ticket fare.

5.The case of the 2nd respondent is that he was continuously working from the year 1974 and he asked for a certificate that he was working from the year 1974. Therefore the petitioner management has orally terminated him from 15.12.2001. The management has taken a stand that the 2nd respondent has misappropriated ticket fare collected from the passengers by not issuing tickets to them. However admittedly the management has not conducted any enquiry before his termination on 15.12.2001.

6.The learned Counsel for the petitioner management has filed an additional typed set of papers before this Court and submits that an enquiry was conducted as against the 2nd respondent by issuing an enquiry notice on 05.04.2002. The reply was submitted by the workman on 16.04.2002.



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It could be seen that only after raising the industrial dispute in the month of February 2002, the notice was issued on 05.04.2002. The 2nd respondent had submitted a representation to the Labour Officer on 11.02.2002 and in the conciliation proceedings notice was issued to the management and the management has also appeared before the conciliation officer on 26.03.2002, but refused to take back the workman into service and therefore the 2nd respondent has raised an industrial dispute before the Labour Court in February 2002.

7.The case of the 2nd respondent that he was orally terminated from 15.12.2001 was not denied by the management before the Labour Court. Admittedly there was no enquiry before 15.12.2001. The allegation made as against the workman is that he had not issued tickets to three passengers for the collected ticket fare and thus misappropriated the collected fare. When the management is raising an allegation of misappropriation and imposing the punishment of termination, they ought to have conducted an enquiry before such punishment.

8.The industrial dispute raised by the workman in ID.No.93 of 2002 was disposed only on 29.03.2013. In the meantime the workman 2nd



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respondent attained the age of superannuation on 31.05.2008. Therefore the Labour Court has passed an award directing the management to pay the back wages from the date of termination till the date of superannuation. Therefore, this Court is not inclined to entertain this writ petition. Accordingly this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

18.09.2024

Internet : Yes / No

Index : Yes / No

DSK

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Labour Court,
Cuddalore.



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B.PUGALENDHI.J.,

DSK

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