



W.P.Nos.15371 of 2009 & 7766 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Writ Petition Nos.15371 of 2009 & 7766 of 2010

The Management
Tamil Nadu State Transport Corporation
(Villupuram Division III) Limited
Kanchipuram.

Petitioner in WP
No.15371/09 & R2
.. in WP No.7766/10

Vs.

1. The Presiding Officer
I Additional Labour Court
Chennai.

.. R1 in both WPs.

2. C.Dayanandan

.. R2 in WP No.15371
/09 & Petitioner
in WP No.7766/10

Prayer: Petitions filed under Article 226 of the Constitution of India seeking a

(i) writ of Certiorari to call for the records relating to the order of the 1st respondent in I.D.No.183 of 2004 dated 23.01.2009 and quash the same; and

(ii) writ of Certiorarified Mandamus calling for the award dated 23.01.2009 in I.D.No.183/04 passed by the 1st respondent, quash the



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same insofar as depriving the petitioner 75% backwages and other attendant benefits and consequently, direct the 2nd respondent to pay the petitioner 75% of backwages and all other attendant benefits in addition to the relief already granted, award costs.

For the Petitioner in WP : Mr.M.Aswin
No.15371/09 & R2 in
WP No.7766/10

For the Respondent-2 in : Mr.V.Ajay Khose
WP No.15371/09 &
Petitioner in WP No.
7766/10

COMMON ORDER

These two writ petitions are against the same award of the Labour Court and as such, are taken up and disposed of by this common order.

2. The I Additional Labour Court, Chennai allowed the claim petition filed by the workman by setting aside the order of dismissal passed by the respondent Management and directing reinstatement of the workman with 25% of backwages. Aggrieved by the portion of



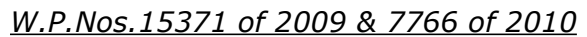
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disallowing 75% of the backwages, the workman is before this Court.

Aggrieved by the part of award ordering reinstatement with continuity of service and 25% of backwages, the Management is before this Court.

3. The workman was conductor under the Management. While so, it is alleged that on 03.05.1999, when the Checking Inspector inspected the bus, it was found that in respect of six passengers, tickets which were sold from different buses were given and the amount of Rs.2 x 6 = Rs.12/- was misappropriated. It was further found that another 10 tickets of Rs.2/- issued by the conductor were not punched. Then, the same was brought to the depot and in the chamber of another Checking Inspector, when the conductor was being confronted, he snatched the said tickets and tore away into pieces and not stopping with that, he also slapped Checking Inspector.

4. Upon receipt of the Charge Memorandum dated 24.05.1999, the workman submitted his explanation on 17.07.1999. It is the case of the workman that the entire incident is stage managed by the



5. It is the specific case that inspection report has been issued wrongly. No such passengers, as mentioned in the inspection report, actually travelled. The incident never happened and that is why the workman did not sign the inspection report. In the normal course, whenever the conductor refuses to sign the inspection report, signature of the driver would have been obtained, which was not done. The entire incident is denied in toto.

6. Under the above circumstances, the domestic enquiry was conducted and ultimately, the workman was dismissed from service by an order dated 23.10.2000. Aggrieved thereby, the workman raised



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the dispute. Conciliation failed. Thereafter, the claim was taken on file as I.D.No.183 of 2004.

7. The claim statement was resisted by the Management. It is the contention of the Management that the charges were actually proved. The statements were recorded from the passengers. Checking Inspector was examined in the domestic enquiry who deposed about the above acts. Therefore, the charges against the workman were proved. The Labour Court, proceeded with the enquiry on the above pleadings. In the enquiry before the Labour Court, no oral evidence was let in by both parties and documents of workman were marked as W1 to W6 and documents of Management were marked as M1 to M19.

8. The Labour Court, thereafter, considered the case of the parties. It considered the specific deposition of the witness who was examined in the domestic enquiry with reference to charge No.2. The said independent witness has spoken that on the said date, the inspection report was attempted to be served on the conductor and the conductor did not sign the inspection report. He specifically denied that



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the conductor snatched tickets or that he slapped the Checking Inspector. Therefore, Charge Nos.2, 3 and 4 remained disproved.

9. As far as Charge No.1 is concerned, the Labour Court considered the cross examination of MW1. MW1 was specifically questioned that the ticket belong to other services namely 117B, whereas the workman was in duty on the route 117A. It was further questioned that the Checking Inspector had, as a matter of fact, inspected the said route on the previous day and had retained the tickets and misused the tickets. Though the said statement was denied by the Checking Inspector, certain answers which were given by him were considered by the Labour Court. The Labour Court then found that when the workman was on duty in the present bus and after considering the timing, it is extremely difficult to understand as to how the tickets will come to the hands of the workman.

10. Secondly, it considered the previous enmity between the Checking Inspector and workman and held that there is a possibility that the said Checking Inspector could have stage managed the



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incident and wrongly foisted the charges against the workman and accordingly, held that the charge is not proved holding that the non employment is unjustified. After considering the overall facts and circumstances and past record of services, the Labour Court ordered reinstatement with continuity of service and with 25% of backwages. Aggrieved thereby, both these writ petitions are filed.

11. Mr.Aswin, learned counsel for the Management, by placing reliance on the trip sheet in respect of the other route 117B and also the trip sheet in respect of the instant route 117A, would submit that the crucial question that was made was with reference to the tickets from the other bus was wrongly recorded in the domestic enquiry. The question should have been worded as route 117A and not route 117B. From the trip sheets which are produced before this Court, which was not part of the records before the domestic enquiry or Labour Court, he would submit that some of the documents which were marked are Rs.6.75, Rs.4.75 tickets that were issued only by the workman in question in the route No.117A and therefore, when the question was recorded as route No.117B by mistake, the answer given to the said



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question was wrongly considered by the Labour Court and therefore, this innocuous mistake in recording the cross examination has ultimately led the Labour Court to come to an erroneous finding and therefore, this Court should interfere with the award of the Labour Court. He would further point out that the workman was involved in a similar charge on a previous occasion and only taking a liberal view, Management reinstated and continued in service.

12. Per contra, Mr.Ajay Khose, learned counsel for the workman would submit that the trip sheets were not part of the records before the Labour Court. It could be seen that when the report of the Checking Inspector was that he snatched two sets of tickets and one set of tickets were torn by the conductor himself and further, he indulged in slapping on the face and when the independent witness who was examined has denied the said incident, it can be easily gauged that the entire report was stage managed and was not true.

13. As far as the six tickets with reference to the Charge No.1 is concerned, firstly, the money that came to the hands of the workman



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was not at all proved in the domestic enquiry. Secondly, when the Checking Inspector and the workman had previous enmity and the same has been specifically referred to in the explanation to the authorities itself, the Labour Court was right in considering that the workman, as a matter of fact, established his defence to disprove the charge and therefore, when the Labour Court, in exercise of its power under Section 11A of the Industrial Disputes Act, after appraisal of the evidence, comes up with such a finding, the same need not be interfered with under Article 226 of the Constitution of India. When the Labour Court has found that the charges have not been proved, then the entire backwages ought to have been given and restricting it only to 25% is erroneous in law.

14. I have considered the rival submissions of either parties and perused the entire records.

15. Even though the trip sheets which are produced before this Court were not part of the records and the Management should have been diligent enough to have produced it in the domestic enquiry or



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before the Labour Court, even by adopting a liberal approach, if the said additional documents are considered by this Court and the question as recorded in the cross examination is held to be erroneous, still leaving that part of the findings of the Labour Court, firstly, primary thing which could have been done by the Management is that when six tickets of the other bus were issued in the present bus, they ought to have examined the said conductor who had issued the said tickets in the other route No.117B. Sadly, the same was not done.

16. Secondly, yet another important factor that the workman has specifically claimed is that when a bus was intercepted and inspection was made and if the conductor refused to make his signature in the inspection report, the procedure as envisaged in the Corporation is that at least the signature of the driver should have been obtained. When the workman raised the same as defence, absolutely no reply was forthcoming from the Management in any manner whatsoever. That is the second circumstance.

17. The third circumstance is at the earliest point of time, the



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workman has pleaded about the previous enmity between the Checking Inspector and himself in detail. The final circumstance is that when the Checking Inspector said that the workman snatched away some tickets and also slapped him on the cheek and when the independent witness says that no such incident happened, then the probability of the case of the conductor/workman becomes even more acceptable.

18. In that view of the matter, the findings of the Labour Court cannot be termed as perverse. The Labour Court, in exercise of its power under Section 11A of the Act is entitled to appraise the evidence and find whether there is evidence or not in proof of the charge. When the Labour Court, after consideration of the evidence in detail, has accepted the fact that the workman has duly established his defence, especially in view of the plea with reference to bias and mala fide intention of the prime witness, this Court sees no ground to interfere in the matter.

19. Similarly, the grant of backwages is not automatic. The



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Labour Court as well as this Court have to see the overall facts and circumstances of the case, including the period of service, nature of charges, nature of proceedings and the factors for which reinstatement was ordered etc. When the Labour Court has considered the overall facts and circumstances of the case and has allowed only 25% of the backwages, no exception whatsoever can be taken in respect of the said decision also. However, it can be seen that backwages is restricted as 25% only with reference to payment of arrears. As far as Provident Fund and other benefits are concerned, the wages of the workman should be taken into account in full and management contribution for the provident fund and other contributions shall be paid in full by taking into account the entire salary amount for the entire period.

20. It is brought to the notice that the workman has also attained superannuation as early as 2011. In view thereof, the amounts that are payable to the workman shall be calculated and be paid to him within a period of twelve weeks from the date of receipt/production of the website uploaded copy, without waiting for the certified copy of the order. If the amount is not paid within the



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above period, the same shall carry interest at 9% per annum from today.

21. With the above observations, the writ petitions are disposed of. There shall be no order as to costs.

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Index : Yes
Neutral Citation : Yes

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To

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D.BHARATHA CHAKRAVARTHY, J.

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