



W.P.No.23593 of 2015

WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.23593 of 2015

and

M.P.No.1 of 2015

The Management,
Tamilnadu State Transport Corporation (Salem Division),
12, Ramakrishna Road,
Salem – 7,
Rep. by its General Manager. ... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Salem.

2.M.Kumarasamy ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records passed by the 1st respondent in I.D.No.84 of 2007 dated 06.11.2014 and to quash the same as illegal.



W.P.No.23593 of 2015

WEB COPY

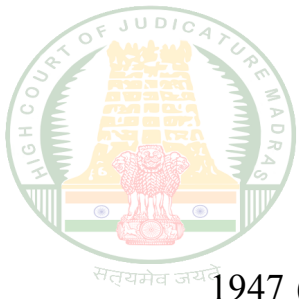
For Petitioner : Mr.M.Aswin

For Respondents : Labour Court [R1]
Mr.P.Manoj Kumar [R2]

ORDER

Aggrieved by the order passed by the 1st respondent/Labour Court in I.D.No.84 of 2007 dated 06.11.2014, the petitioner corporation has filed the present writ petition.

2. The 2nd respondent while in service under the petitioner corporation, participated in a strike organised by the union and damaged the front left side of the wind screen of the bus belonging to the petitioner corporation. Based on that, the 2nd respondent was charge sheeted. After following the usual procedure of appointing enquiry officer and conducting domestic enquiry, ultimately an order of dismissal was passed. The 2nd respondent raised an industrial dispute and the labour court, after analyzing the materials available before it held that the punishment imposed was highly disproportionate to the misconduct alleged. Exercising its jurisdiction u/s 11A of the Industrial Disputes Act,



W.P.No.23593 of 2015

WEB COPY

1947 (in short 'the Act'), the labour court set aside the order of dismissal and directed the petitioner to reinstate the 2nd respondent into service and ordered backwages at 25% for the period between 17.11.2003 and 30.06.2004. The said period is from the date of dismissal order passed against the 2nd respondent and the date of the superannuation of the 2nd respondent. Challenging the same, the present writ petition has been filed by the petitioner corporation.

3. Learned counsel appearing for the petitioner submitted that the labour court ought to have abstained with the interfering with punishment as that it was not grave punitive action. The labour court had not taken into account, the overall circumstances and had to have concluded that the punishment of dismissal was proportionate to the delinquency but the imposed punishment was a meager one and to have taken note that in similar case, the Supreme Court and this Court had not interfere even with dismissal. Accordingly, he prays for allowing the writ petition.



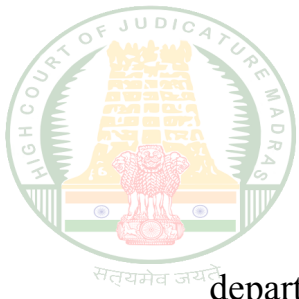
W.P.No.23593 of 2015

WEB COPY

4. Per contra, learned counsel appearing for the 2nd respondent/workman submitted that for the misconduct committed by the 2nd respondent, the petitioner corporation has imposed the punishment of dismissal from service, which is highly disproportionate and the same is contrary to the ratio laid down by the Apex Court in the case of ***Prem Nath Bali Vs. High Court of Delhi*** reported in ***(2015 (16) SCC 415)***. Therefore, the labour court has interfered with the same and passed the impugned order setting aside the order of dismissal passed by the petitioner corporation against the 2nd respondent, which does not warrant any interference. Further, he submitted that the 2nd respondent has reached the age of superannuation. Accordingly, he prays for appropriate orders.

5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. Admittedly, the 2nd respondent/workman worked under the petitioner corporation and for the alleged misconduct, after conducting



W.P.No.23593 of 2015

WEB COPY

departmental enquiry, he was dismissed from service, assailing which, the present writ petition has been filed.

7. In ***Prem Nath Bali Vs. High Court of Delhi*** reported in (2015

(16) SCC 415), the Hon'ble Supreme Court held as under :-

20. It is a settled principle of law that once the charges leveled against the delinquent employee are proved then it is for the appointing authority to decide as to what punishment should be imposed on the delinquent employee as per the Rules. The appointing authority, keeping in view the nature and gravity of the charges, findings of the inquiry officer, entire service record of the delinquent employee and all relevant factors relating to the delinquent, exercised its discretion and then imposed the punishment as provided in the Rules.

21. Once such discretion is exercised by the appointing authority in inflicting the punishment (whether minor or major) then the Courts are slow to interfere in the quantum of punishment and only in rare and appropriate case substitutes the punishment and only in rare and appropriate case substitutes the punishment. Such power is exercised when the Court finds that the delinquent employee is able to prove that the punishment inflicted on him is wholly unreasonable, arbitrary and disproportionate to the gravity of the proved charges thereby shocking the conscience of the Court or when it is found to be in contravention of the Rules. The Court may, in such cases, remit the case to the appointing authority for imposing any other punishment as against what was



WEB COPY



W.P.No.23593 of 2015

originally awarded to the delinquent employee by the appointing authority as per the Rules or may substitute the punishment by itself instead of remitting to the appointing authority.

(Empasis Supplied)

8. The labour court, invoking powers conferred on it u/s 11A of the Act, substituted the punishment by itself instead of remitting the matter to the petitioner corporation. This Court does not find any error or illegality in the impugned order passed by the labour court warranting interference. Hence, this Writ Petition is liable to be dismissed.

9. Accordingly, the Writ Petition is dismissed and the impugned award passed by the labour court in I.D.No.84 of 2007 dated 06.11.2014 is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

04.03.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp



W.P.No.23593 of 2015

WEB COPY To

- 1.The Presiding Officer,
Labour Court,
Salem.
- 2.The General Manager,
Tamilnadu State Transport Corporation (Salem Division),
12, Ramakrishna Road,
Salem – 7.



WEB COPY



W.P.No.23593 of 2015

M.DHANDAPANI, J.

sp

W.P.No.23593 of 2015

04.03.2025