



W.P. No.26708 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.26708 of 2012

Janab Jinna

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Cuddalore.

2. The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
Villupuram.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the 1st respondent pertaining to its order dated 16.10.2007 made in I.D.No.18 of 2004 and quash the same.

For Petitioner : M/s.G.S.Kumaraselvan

For Respondents : Court – R1

Mr.M.Aswin for R2

ORDER

This Writ petition has been filed seeking to quash the order dated 16.10.2007 made in I.D.No.18 of 2004.

2. It is the case of the petitioner that the petitioner is working as a



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driver in Tamil Nadu State Transport Corporation, Thiruvannamalai.

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Subsequently, impugned order was passed on 25.10.1996 dismissing the petitioner from service for his unauthorised absence. Challenging the same, the petitioner raised an industrial dispute before the Labour Court in I.D.No.18 of 2004 however, the same was dismissed vide order dated 16.10.2007. Challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner / workman submits that for the misconduct of unauthorised absence, the petitioner was dismissed from service by the respondent Corporation, which is highly disproportionate. Moreso, the petitioner repeatedly sent requisition letters to the management for not attending duty and even when the same was received by the management, the management passed an order of termination. Without considering the said fact, the Labour Court had also dismissed the dispute raised by the workman, which is *per se* unsustainable. Accordingly, he prays for appropriate orders.

4. The learned counsel for the second respondent management submits that though the petitioner entered the services of the second respondent in the year 1981, he was continuously absent for a period of two



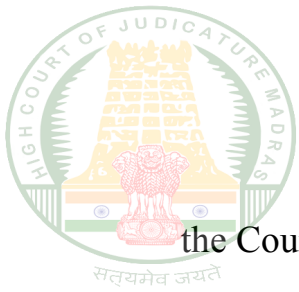
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months, thereby the enquiry officer was appointed and has drawn a proven minute, thereby, disciplinary proceedings was initiated against him, which was well appreciated by the Labour Court and refused to interfere with the order of termination passed by the management, which is *per se* sustainable and the same does not require any interference. Accordingly, he prays for dismissal of the writ petition.

5. Admittedly, the petitioner was employed as driver in the second respondent management from the year 1981. For the alleged misconduct, he was issued with a charge memo and after conducting enquiry, he was terminated from service on 25.10.1996. However, the issue arises for consideration in this writ petition is whether for unauthorised absence, the punishment imposed by the management is proportionate or not ?

6. Normally, this Court would not interfere with the punishment imposed on the delinquent unless it is shown to be arbitrary, perverse, illegal and further the punishment imposed on the delinquent shocks the conscience of this Court, as this Court is guided by the ratio laid down in ***Prem Nath Bali Vs. High Court of Delhi (2015 (16) SCC 415)***. So long as the punishment imposed is not disproportionate to the charges framed against,



the Courts normally would not interfere with the punishment.

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7. It has been the consistent view of the Courts that, it is always within the domain of the appointing authority to decide on the punishment to be imposed on the delinquent, which should be proportionate to the act of the delinquent. Only when the punishment is disproportionate and shocking to the conscience, should the courts interfere with the same in exercise of powers under Article 226 of the Constitution. 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



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disproportionate to the gravity of the proved charges thereby shocking the conscious 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 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. In the present case, the allegation made against the petitioner is not corruption or insubordination or any other major allegation, but the allegation levelled only relates to unauthorized absence. Even assuming that the allegations made against the workman is a proved misconduct, dismissing the workman from service is highly disproportionate, which is liable to be interfered with.

9. Though this Court would not normally interfere with the punishment imposed on the delinquent, unless it shocks the conscience of this Court, but this Court, already having held that the punishment is disproportionate and also the fact that the workman attained the age of superannuation, in order to strike balance between the parties is inclined to fix compensation as full quit. The second respondent management is directed to pay a sum of Rs.1,50,000/- as compensation in full quit in favour of the



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petitioner within a period of four (4) weeks from the date of receipt of a copy

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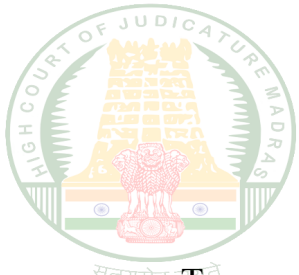
10. With the above observation this writ petition is disposed of. No costs.

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Index : Yes / No

Speaking order : Yes / No



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To
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