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WP.No.1245 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.1245 of 2021

The General Secretary
Tamil Nadu State Transport
Corporation Employees Union
Vellore

... Petitioner

Vs.

The Management
Tamil Nadu State Transport Corporation Ltd
Villupuram (Division- II)
Rangapuram Vellore- 9

... Respondent

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India Calling for the records from the Principal Labour Court, Vellore relating to the Impugned order dated 19.12.2013 made in IA.No 197/2013 IN I.D.No. 7/2012 and quash the same and direct labour court to pass Award on merit.



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For Petitioner : M/s.S.Ravi

For Respondent : M/s.M.Aswin,
Standing counsel for the sole respondent

ORDER

The above Writ Petition has been filed by the Union for and on behalf of the workman R. Udhayakumar. The Union seeks to quash the order passed by the Labour Court, Vellore in IA.No.197/2013 in ID.No.7 of 2012 in and by which the application filed by the Union to restore the Industrial Dispute has been dismissed.

2. The facts are briefly set out herein below:-

3. The workman R. Udhayakumar was working as a conductor in the respondent Corporation from the year 1986 and had a blemishless record. However, on 24.02.2000, he was issued with a charge memo stating that he had abused the Branch Manager and Controller using unparliamentary language on 11.01.2000 at Vandavasi bus stand. This charge was denied by the workman vide his reply dated 22.04.2000. This explanation was rejected by the



management who proceeded to conduct a domestic enquiry and the enquiry officer found the petitioner guilty of the charges.

4. After accepting the findings of the enquiry officer the respondent had issued a second show cause notice dated 24.03.2004 for which the petitioner had submitted his explanation vide letter dated 24.04.2004. However, without applying its mind to the explanation offered, the management had imposed the punishment of reduction of basic pay from the scale of Rs.4,215/- to the scale of Rs.3,260/- for the succeeding 3 years.

5. Since as per the provisions of the Industrial Disputes Act (herein after called as the "ID Act"), the individual workman could not agitate his case before the Labour Court, the Union had taken up the workman's case and raised an Industrial Dispute under Section 2K of the ID Act. The Conciliation Officer was unable to bring about the settlement between the petitioner and the respondent management and therefore he had sent his failure report on 30.06.2005. Thereafter, the



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case was referred by the Government of Tamilnadu under Section 10(1) of the ID Act to the Labour Court, Vellore for adjudication vide

order dated 10.01.2012 and the terms of reference was as follows:-

" Whether the demand of the workers union to set aside the punishment of reduction of pay of Thiru. R.Udhayakumar to the basic for a period of three years imposed by the management by its order dated 21.05.2004 was correct and if not what other order be issued?"

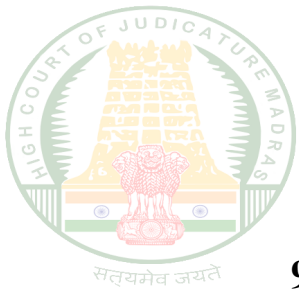
6. The petitioner would submit that since he could not directly prosecute the dispute and only the workers union had a right, the General Secretary of the union had filed a claim statement to which the respondent management had filed their counter. Subsequently, the matter was posted for enquiry, during which the respondent management sought the permission of the Court to file an additional counter statement. The Labour Court had shown indulgence to the respondent management by allowing them additional time to file their counter statement. However, the same was not filed, and on two subsequent occasions (i.e; on 13.05.2013 and 12.06.2013), neither the management nor their counsel appeared before the Court. Thereafter,



the matter was adjourned to 08.07.2013 for enquiry. In the first week of July 2013, the respondent management once again filed an application for reopening the case to permit them to file an additional counter statement. This petition was allowed. Ultimately, as a final opportunity, the matter was posted for enquiry on 22.08.2013.

7. On 22.08.2013, as the counsel representing the union was engaged elsewhere, he had requested the General Secretary of the union to appear before the Court. However, the General Secretary could not reach the Court premises in time and the Industrial Dispute was dismissed immediately for non-appearance.

8. The learned counsel appearing for the union on coming to know about the same had filed an application (IA.No.197/2013) dated 29.08.2013 explaining the reason for non appearance of himself and the General Secretary of the Union on 22.08.2013 and seeking to set aside the order of dismissal. This application came to be dismissed only on the ground that the affidavit of the party had not been filed and only the affidavit of the counsel had been filed. Challenging the same, the petitioner has approached this Court.

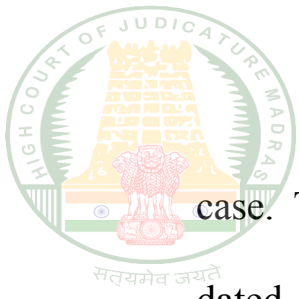


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9. Heard the learned counsel on either side and perused the records.

10. The ID Act is a benevolent legislation intended to protect the interest of the workman from exploitation. The workman in the instant case was being represented by the union and by reason of the non appearance of the learned counsel representing the union and the General Secretary of the union the matter came to be dismissed for default.

11. From the records it is seen that the Labour Court had shown great indulgence to the respondent management. However, on the very first occasion of non appearance of the petitioner and his counsel the Industrial Dispute has been dismissed for default. The application to set aside the said order has been filed within a week from the date of the order of dismissal. The Labour Court, Vellore, did not consider this factor nor did it take into account the merits of the workman's



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case. Therefore, the Writ Petition is allowed. The impugned order dated 19.12.2013 is set aside and ID.No.7 of 2012 is restored to file

The Principal Labour Court, Vellore is directed pass orders on merits by following the due process of law. No costs.

11.06.2025

(shr)

Index : Yes/No

Speaking Order: Yes/No

Neutral Citation : Yes/No

To

1.The Principal Labour Court, Coimbatore,
Coimbatore.

2.The Management of
Tamilnadu Transport corporation
(Coimbatore) Ltd
No.37, Mettupalayam Road
Coimbatore - 641 043



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