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W.A.No.1686 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2025

CORAM :

THE HONOURABLE MR.JUSTICE M.S.RAMESH
AND
THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

W.A.No.1686 of 2024

M.Sivalingam

...Appellant

Vs.

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd., Pallavan Illam,
No.2, Anna Salai,
Chennai – 600 002.

...Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent Act to set aside the order of this Court dated 22.01.2024 passed in W.P.No.15316 of 2019 and allow the Writ Appeal.

For Appellant : Mr.S.T.Varadarajalu

For Respondent : Mr.C.Gauthamaraj



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JUDGMENT

(Judgment of the Court was delivered by M.S.RAMESH,J.)

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The charges levelled against the appellant/Driver is that on 05.06.2007, while returning to the depot in the bus, he had stopped the vehicle in a highway near a Hotel and stolen 30 litres of diesel from the diesel tank. After a detailed domestic enquiry, he was dismissed from service on 27.07.2010, on the strength of the proven charges. The challenge to the dismissal order before the III Additional Labour Court in I.D.No.797 of 2015 was allowed on 15.11.2018 and the punishment of dismissal was set aside. Since he had reached the age of superannuation by then, the Award for reinstatement was not ordered, but the attendant benefits from the date of his dismissal till the date of superannuation was extended. When the Corporation challenged the award in I.D.No.797 of 2015 before the Writ Court in W.P.No.15316 of 2019, the Writ Petition came to be allowed on 22.01.2024, by setting aside the Award. This order of the Writ Court is put under challenge before us.

2. Curiously, the Labour Court had recorded in its Award that this is a peculiar case in which the shortage of diesel and the liability of the appellant was proved by the Corporation in the domestic enquiry and the manner of the commission of the theft alone has not been proved. The Labour Court had also assigned its reason that when there is shortage of



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diesel and there is no other reason for such shortage, the appellant is proved to be liable for the same, though the manner in which the theft has been committed is not proved. However, while discussing the proportionateness of the charge to the punishment, the Labour Court had recorded that if the value of the stolen diesel is recovered from the Driver, the misconduct of theft would only amount to misappropriation and therefore had come to the conclusion that the punishment is disproportionate. In the operative portion of the Award also, liberty was granted to the Corporation to recover the value of the diesel misappropriated by the appellant with interest.

3.In the judgment of the Hon'ble Supreme Court in the case of ***Divisional Controller, KSRTC vs. A.T.Mane***, reported in ***2005 (3) SCC 254***, it was held that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, but on the contrary it is a loss of confidence, which is the primary factor to be taken into consideration. The learned Single Judge had also placed reliance on this judgment and thereby held that the Labour Court had erred in interfering with the punishment on the ground of disproportionateness.



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R.SAKTHIVEL, J.

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4.We are in agreement with the findings of the learned Single Judge and thus, we do not find any grounds to interfere with the order passed in the Writ Petition. Accordingly, the Writ Appeal stands dismissed. No costs.

[M.S.R.,J] [R.S.V.,J]
27.10.2025

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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To

The Management,
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