



W.P.No.16296 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16296 of 2019

and

W.M.P.No.15977 of 2019

The General Manager,
State Express Transport Corporation Tamil Nadu Ltd.,
No.2, Pallavan Salai,
Chennai – 600 002. ... Petitioner

Vs.

State Express Transport Ooliyar Sangam,
Regd. No.MDS/1068,
State Express Transport Corporation,
Salem – 636 007,
Through: Branch Manager ... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records pertaining to the order passed in I.D.No.140 of 2013 dated 23.11.2017 on the file of the Labour Court, Salem and quash the same.

For Petitioner : Mr.L.S.M.Hasan Fizal

For Respondent : Mr.K.Elango



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ORDER

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Aggrieved by the award dated 23.11.2017 passed by the Labour Court, Salem in I.D.No.140 of 2013, the petitioner corporation has filed the present writ petition.

2. The case of the petitioner is that the member of the respondent sangam, namely Vimalraj was working as a conductor in the petitioner corporation. He was a habitual absenter and irregular in attending the duty. He had violated the certified standing order. On many times, he was warned and advised to come to duty regularly without any leave, however, he was punished 18 times in his service. Whiles, from 10.11.2008 he had absented himself from duty for nearly 287 days, thereby charge memo was issued, explanation was called for and being not satisfied with the explanation, domestic enquiry was ordered and it was held in fair and proper manner. Based on the report of the enquiry officer and past service condition, his basic pay was reduced to the original pay and the unauthorized absence period was treated as leave period and no work and no pay principles was applied and punishment order was passed on 07.09.2010. Aggrieved by the same, the respondent union raised an industrial dispute in I.D.No.140 of 2013 before the



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labour court and the labour court allowed the said dispute vide impugned order dated 23.11.2017. Challenging the same, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the respondent union has not established before the labour court that the said workman had submitted his medical leave application as per the Standing Orders for his absence, thereby the petitioner has passed the order of punishment, which was erroneously interfered by the labour court, which is wholly unsustainable. Accordingly, he prays for allowing the writ petition.

4. Per contra, learned counsel appearing for the respondent submitted that due to ill-health, the workman had absented himself from duty from 10.11.2008 to 08.01.2009. On 08.01.2009, he made an application for medical leave. Without processing the application submitted by him, the petitioner management has decided to issue show cause notice and allowed the workman to rejoin duty only on 07.04.2009. However, learned counsel, fairly conceded that the workman did not made an application for medical leave on 10.11.2008, however, he made



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application on 08.01.2009. Even then, the order of punishment passed by the petitioner is highly disproportionate, thereby the labour court has allowed the dispute raised by the respondent union, which does not require any interference. Accordingly, he prays for dismissal of the writ petition.

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

6. Admittedly, the workman was working as a conductor in the petitioner corporation and he unauthorizedly absented himself from duty from 10.11.2008 to 06.04.2009, thereby petitioner had initiated disciplinary proceedings against him and passed an order of punishment, against which, the respondent sangam had raised an industrial dispute before the labour court, which was dismissed by the labour court, assailing which, the present writ petition has been filed.

7. The issue arises for consideration in this writ petition is whether the workman made medical leave application for his absence from 10.11.2008 to 06.04.2009.



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8. Admittedly, the workman made an application for medical leave only on 08.01.2009 and prior to 08.01.2009, the workman has not made any application for medical leave before the petitioner corporation. Under such circumstances, the petitioner corporation had imposed a punishment of reduction of wages, however, the punishment imposed by the petitioner is not in clear terms, thereby, the labour court set aside the same. However, for the misconduct of unauthorized absence committed by the workman from 10.11.2008 to 06.04.2009, the punishment imposed by the petitioner corporation is disproportionate. Hence, considering the fact that the workman has retired from service, this Court is inclined to modify the punishment imposed by the petitioner corporation in the following terms :-

(i) there shall be a punishment of stoppage of increment for two years without cumulative effect to the workman ;

(ii) the petitioner is directed to settle the entire terminal benefits to the workman by adjusting the punishment imposed by this Court within a period of twelve (12) weeks from the date of receipt of a copy of this order.



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M.DHANDAPANI, J.

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9. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

02.04.2025

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

1.The Labour Court,
Salem.

2.The General Manager,
State Express Transport Corporation Tamil Nadu Ltd.,
No.2, Pallavan Salai,
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