



W.P.No.16187 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.16187 of 2019
and
WMP.No.15906 of 2019

The Management,
Metropolitan Transport Corporation (Chennai) Ltd.,
Pallavan Illam, Anna Salai,
Chennai – 600 002.

...Petitioner

Vs.

The General Secretary,
Arasang Pokkuvarathu Oozhiyar Sangam,
Regn. No.73, Joint/MTS (CITU)
Pallavan Salai, Chennai 600 002.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the order passed in I.D.No.239 of 2016 dated 11.10.2018 on the file of the IIIrd Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.C.Gauthamaraj, SC

For Respondent : Mr.S.T.Varadarajalu



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ORDER

WEB COPY This Writ petition has been filed seeking quashment of the award made in I.D.No.239 of 2016 dated 11.10.2018 on the file of the III Additional Labour Court, Chennai.

2. It is case of the petitioner that one J.Azhagesan (hereinafter referred to as 'workman') joined the services of the petitioner corporation as Conductor. While so, as he unauthorisedly absented himself from duty from 27.02.2010 without obtaining prior permission, the petitioner initiated domestic enquiry and after conducting enquiry, as the charges framed as against the said Azhagesan was proved, the petitioner corporation imposed a minimum punishment of postponement of annual increment for a period of two years with cumulative effect. Aggrieved by the same, the respondent union raised an industrial dispute on behalf of the workman in I.D.No.239 of 2016 and the Labour Court, vide impugned award dated 11.10.2018 set aside the order of punishment imposed on the workman and ordered for payment of arrears of increment and other monetary benefits. Challenging the same, the petitioner has come up with this Writ petition.



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3. Learned counsel for the petitioner submitted that, the workman joined the services of the petitioner corporation as a Conductor on 25.02.2010 and after working only for two (2) days, he absented himself from duty from 27.02.2010 till 10.03.2011, which is for a period of more than one year and the same is a clear violation of Section 25(vi) of the Certified Standing Orders of the petitioner corporation and because of his absence, the Petitioner corporation was unable to operate the bus in time and due to which, there was a revenue loss to the corporation and the same has to be reimbursed from the workman. Thereby, the petitioner issued a charge memo on 23.03.2010 as against the workman, however, the respondent had submitted his explanation after one year. Even then, without prejudice to the disciplinary action, reinstatement order was issued. Thereafter, domestic enquiry was conducted and the 2nd show cause notice was issued to the workman along with the proposed punishment of dismissal from service. Upon receipt of the said notice, on 25.07.2011, the respondent had submitted explanation and only on humanitarian grounds, the punishment was modified to one of postponement of annual increment for two years with cumulative effect. Even aggrieved by the said minimal punishment, the respondent Union raised the present dispute in I.D.No.239



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of 2016 before the III Additional Labour Court, Chennai, who in turn, passed the present impugned order setting aside the punishment order imposed on the workman, which is not sustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel appearing on behalf of the respondent union submitted that, the labour court, after careful consideration of the materials placed before it and also considering the fact that the workman absented himself from duty only on medical grounds and the same is neither wilful nor wanton, held that the punishment of postponement of annual increment for a period of two years with cumulative effect imposed on the workman is disproportionate and thereby, set aside the same, vide impugned order, which cannot be said to be erroneous and the same does not warrant interference of this Court. Accordingly, he prayed for dismissal of this Writ petition.

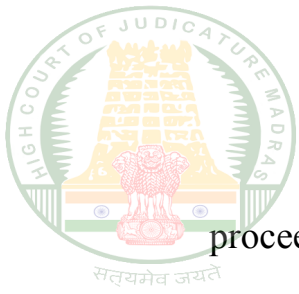
5. Heard learned counsel on either side and perused the materials available on record.



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WEB COPY 6. On a perusal of the material documents placed on record particularly the impugned order, this Court is of the view that the punishment of postponement of annual increment for a period of two years with cumulative effect cannot be said to be disproportionate. It is not the case of the workman that he had absented from duty after obtaining prior permission. Be it a day or a year, unauthorised absence cannot be condoned so cheaply, more particularly considering the fact that the employment of the workman is in the Transport Corporation, which caters to the general public and the public being the masters, the unauthorised absence of the workman definitely leads to putting stress on the shoulders of other workmen and at the same time hampering the travelling public.

7. When the disciplinary authority imposes punishment, the duty of the Court is to see the proportionality of the punishment and not always this Court should enter and interfere with the same. When proportionate punishment is awarded, the Courts shall be slow to interfere. In the present case, there is no violation of principles of natural justice in the enquiry and considering the delinquency committed by the workman, the authority has



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proceeded to impose only minimal punishment, which cannot be said to be disproportionate.

8. For the reasons aforesaid, this Court is inclined to interfere with the order passed by the Labour Court by setting aside the same and upholds the punishment of postponement of annual increment for a period of two years with cumulative effect imposed by the management.

9. With the above observations, this Writ petition stands allowed and the impugned award of the III Additional Labour Court, Chennai made in I.D.No.239 of 2016 dated 11.10.2018 is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

28.03.2025

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NCC	: Yes / No
Speaking Order	: Yes / No
Index	: Yes / No



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Chennai.
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M.DHANDAPANI, J.

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