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W.P.No.18006 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2025

CORAM

THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.No.18006 of 2022

And

W.M.P.No.17332 of 2022

M/s.Management of
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Kancheepuram Zone
Ponnerikarai, Bangalore – Chennai
National Highway
Kancheepuram District – 631 552.

... Petitioner

Vs.

S.Natarajan

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the award made in I.D.No.124 of 2018 dated 03.01.2020 on the file of the Presiding Officer, Labour Court, Kancheepuram, and quash the same.

For Petitioner : Mr.T.Chandrasekaran
For Respondent : Mr.N.K.Ram Siddharth
for Mr.S.Sivakumar through V.C.

O R D E R

This writ petition has been filed to quash the award passed by



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the Labour Court, Kancheepuram in I.D.No.124 of 2018 dated 03.01.2020.

2.The short facts necessary to dispose of the writ petition are as follows:

(i)The respondent was working as a driver under the Management of the petitioner and he was continuously un-authorisedly absent from 14.09.2010 onwards without any prior permission. In the meantime he filed an application for voluntary retirement and the same was rejected due to non completion of 20 years of service. Due to his un-authorised absence, a charge memo was issued by the petitioner Management and the same was received by the respondent and no explanation was offered by him. Thereafter, domestic enquiry was conducted. In the said proceedings also, the respondent has not participated. After due enquiry, the Enquiry Officer rendered findings that charge against respondent was proved and the report of the Enquiry Officer was also accepted by the Disciplinary Authority.

(ii)Thereafter, a copy of the enquiry report along with show cause notice was also served to the respondent and no explanation



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was offered by him. Thereafter, the Disciplinary Authority passed order by removing the respondent from service. Thereafter, the respondent raised industrial dispute before the Labour Court, Kancheepuram, challenging the dismissal order passed by the Disciplinary Authority in I.D.No.124 of 2018. Before the Labour Court, Kancheepuram, on the side of the respondent workman, he was examined as P.W.1 and exhibits Ex.W1 to Ex.W15 were marked. No oral or documentary evidence was adduced on the side of the petitioner Management.

(iii)The Labour Court, after considering the evidence adduced on either side allowed the industrial dispute and set aside the punishment of removal from service awarded by the Disciplinary Authority dated 24.04.2015 and directed the Management to pay the entire backwages for the period from 10.12.2010 till 31.05.2015 and consequent pension benefits arising out of the total employment period from 27.09.1983 till 31.05.2015 to the workman within three months. Now the said order has been challenged by the Management through this writ petition.



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3.The learned counsel appearing for the petitioner would submit that the respondent was working as driver under the Management of the petitioner and he was un-authorisedly absented from 14.09.2010 onwards. Therefore, the petitioner issued a charge memo for the un-authorised absence and the same was served upon the respondent but he has not submitted his explanation, thereby domestic enquiry was ordered and the Enquiry Officer conducted domestic enquiry. In the domestic enquiry proceedings also, the respondent failed to appear and the Enquiry Officer rendered his findings, thus, the charge against the respondent was proved. Thereafter, the Disciplinary Authority sent second show cause notice and no explanation was offered by the respondent. Thereby the Disciplinary Authority passed order by terminating the service of the respondent.

4.The learned counsel appearing for the petitioner would further submit that the respondent raised industrial dispute before the Labour Court, Kancheepuram. The Labour Court without considering the case of the petitioner allowed the industrial dispute. The Labour Court mis-construed the documents marked by the respondent and exhibit Ex.W2 relates to the period from 08.02.2009 to 20.01.2010 but the charge



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memo relate to the period from 14.09.2010 onwards. The Labour Court exceeded its jurisdiction to decide the issue on the Rights of Persons with Disabilities Act, which does not arise when the issue is about un-authorised absence. The reasons assigned by the Labour Court for allowing the industrial dispute are un-sustainable. Therefore, the order passed by the Labour is liable to be quashed.

5.The learned counsel appearing for the respondent would submit that the respondent was working as a driver and due to his health condition, he was unable to attend the work and he also informed about his health condition to the petitioner Management and the same has not been considered. He was referred to Medical Board and the Board also gave a certificate about the fitness of the respondent to do the driver work, however, without considering the same, the petitioner initiated disciplinary proceedings and no sufficient opportunity was given to the respondent in the domestic enquiry. In his absence, the enquiry proceedings was conducted. The Disciplinary Authority without considering the above said aspects, accepted the enquiry report of the Enquiry Officer erroneously. Therefore, he raised industrial dispute before the Labour Court.



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6.The learned counsel appearing for the respondent would further submit that the respondent was examined as P.W.1 and he marked exhibits Ex.W1 to Ex.W15. No oral or documentary evidence was adduced on the side of the petitioner Management to rebut the evidence of the respondent workman. Moreover, the respondent was working at Orikkai bus depot but the charges were framed and issued by the Kalpakkam bus depot. Therefore, the Labour Court after considering all the legal and factual aspects, correctly allowed the industrial dispute and set aside the termination order and also directed the Management to pay the entire backwages for the period from 10.12.2010 till 31.05.2015 and consequent pension benefits arising out of the total employment period from 27.09.1983 till 31.05.2015 to the workman. Therefore, the present writ petition is liable to be dismissed.

7.This Court heard both sides and perused the records.

8.In this case, it is admitted fact that the petitioner Corporation initiated disciplinary proceedings against the respondent and the respondent has not participated in the enquiry proceedings. According

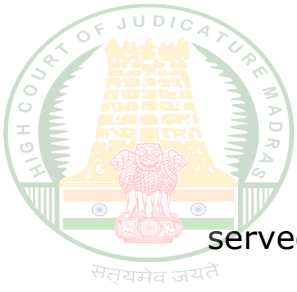


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to the respondent, no opportunity was given to him in the disciplinary proceedings, thereby, principles of natural justice have not been followed. The respondent also not disputed the absence from duty for the particular period, but according to him, due to his illness he could not attend duty and he already informed the same to the Management and the same was not accepted by the petitioner Management.

9.In this context, the respondent was examined as witness before the Labour Court and also marked 15 documents. On the other hand, no any witnesses were examined and no documents were marked on the side of the petitioner Management to rebut the evidence of the respondent herein. The writ petitioner himself admitted that the respondent has not participated in the domestic enquiry proceedings. Whiles, it is for the Management to prove that sufficient opportunity was given to the respondent and notices were served upon him. It is also admitted fact that the respondent submitted his application for voluntary retirement and the same was rejected on the ground that he has not served qualifying services to accept the VRS application. Whiles, the petitioner Management could very well produce the documents to show that the respondent was

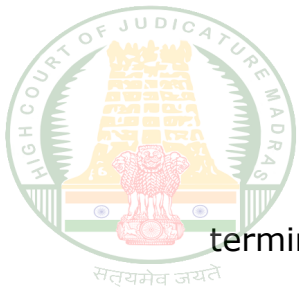


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served notice in the domestic enquiry proceedings but no any documents were produced before the Labour Court.

10.That apart, it is the admitted fact that the charge memo was issued by the Kalpakkam bus depot, whereas, the respondent was working at Orikkai bus depot. Therefore, it is the duty of the petitioner Management to prove that notice was served to the respondent in the proper address, but no records were produced to prove the same. Therefore, the enquiry was conducted without adopting the principles of natural justice. Therefore, the entire proceedings are vitiated. In this context, the Labour Court also elaborately discussed that no opportunity was given to the respondent in the domestic enquiry proceedings and no any records produced by the petitioner Management to prove that notice in respect of disciplinary proceedings was served to the respondent.

11.Moreover, the respondent also requested the petitioner Management to consider his application for voluntary retirement due to his ill health and the same was rejected by the petitioner. Therefore, the Labour Court correctly held that enquiry proceedings have not been conducted in a fair and proper manner and set aside the



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termination order passed by the petitioner Management dated 24.04.2015 and directed the Management to pay the entire backwages for the period from 10.12.2010 till 31.05.2015 and consequent pension benefits arising out of the total employment period from 27.09.1983 till 31.05.2015 to the workman. Therefore, the above said order is well reasoned order and it does not warrant interference.

12.In view of the above said discussions, this Court is of the opinion that this petition has no merits and the same is liable to be dismissed. In the result, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.06.2025

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

To

1.The Presiding Officer,
Labour Court,
Kancheepuram.



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P.DHANABAL,J.
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