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W.P.No.17986 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17986 of 2014

And

M.P.No.1 of 2014

The Management,
Tamilnadu State Transport Corporation Ltd.,
Salamedu, Vazhuthareddy, Villupuram,
Villupuram District.
Rep. by its General Manager

... Petitioner

Vs.

1.K.Sundaramoorthy

2.The Presiding Officer,
Labour Court,
Cuddalore.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the second respondent made in I.D.No.73 of 2010 dated 02.09.2013 and to quash the same as illegal.

For Petitioner : Mr.M.Aswin

For Respondents : R1 – No Appearance
R2 – Court



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ORDER

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The petitioner has filed this writ petition seeking issuance of Writ of Certiorari to call for the records of the second respondent made in I.D.No.73 of 2010 dated 02.09.2013 and to quash the same as illegal.

2.The case of the petitioner is that the first respondent joined duty as a Conductor in the petitioner Corporation on 01.07.1997 and he was unauthorisedly absent from 02.01.2008 and hence he was issued with charge memo dated 21.07.2008 and after enquiry, he was dismissed from service on 13.03.2009 and aggrieved by the same, the first respondent raised industrial disputes in I.D.No.73 of 2010 and the second respondent passed the impugned order directing the petitioner to reinstate the first respondent with continuity of service and pay 25% of backwages from the date of application to the Conciliation Officer and also directed the petitioner to award stoppage of two increments with cumulative effect as punishment to the first respondent. Challenging the same, the petitioner has filed this writ petition.

3.The learned counsel appearing for the petitioner submitted



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that the first respondent was unauthorisedly absent from 02.01.2008 and hence he was issued with charge memo dated 21.07.2008 and enquiry was conducted and since the Enquiry Officer drawn proven minute, he was dismissed from service on 13.03.2009. Such decision need not be interfered with by the Labour Court unless the Labour Court arrive at a conclusion that prima facie evidence is not available to dismiss the first respondent. The dismissal order was in consonance with the Standing Orders of the petitioner, however, the Labour Court passed the impugned order, which is not sustainable one. The learned counsel further submitted that during the pendency of this writ petition, the first respondent was reinstated in service without prejudice to the writ petition.

4. Heard the learned counsel appearing for the petitioner. Though the name of the first respondent is printed in the cause list, there is no representation for the first respondent. Considering the pendency of the writ petition, this Court is inclined to proceed with the case and decide the same based on the materials available on record.

5. The facts of the case is not in dispute. It appears that during



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the pendency of this writ petition, the first respondent was reinstated in service without prejudice to the writ petition. Admittedly, the first respondent was unauthorisedly absent from 02.01.2008. The allegation against the first respondent is not corruption or insubordination and it is only unauthorised absence and for unauthorised absence, the order of dismissal is too harsh, thereby, the Labour Court by exercising its discretionary power modified the punishment, which need not be interfered with.

6.In view of the above, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

20.02.2025

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

To

1.The Presiding Officer,
Labour Court,
Cuddalore.

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M.DHANDAPANI,J.
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