



W.P.Nos.21863 of 2021 and 22484 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 22.7.2025

CORAM

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.Nos.21863 of 2021 and 22484 of 2022
and W.M.P.No.23051 of 2021

In W.P.No.21863 of 2021:

The Management,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd,
No.37, Mettupalayam Road,
Coimbatore. Petitioner

Vs

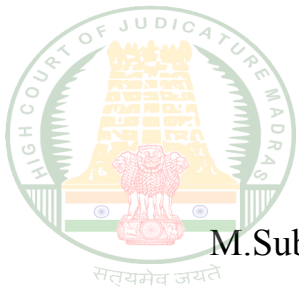
M.Subramaniam Respondent

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records in I.D.No.125 of 2017 on the file of the Principal Labour Court, Coimbatore dated 29.7.2020 and quash the same.

For Petitioner : Mr.A.Sundaravadhanan

For Respondent : Mr.D.Udhayasuriyan

In W.P.No.22484 of 2022



W.P.Nos.21863 of 2021 and 22484 of 2022

M.Subramaniam

.... Petitioner

Vs.

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The Management,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd,
No.37, Mettupalayam Road,
Coimbatore.

.... Respondent

PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records on the file of the Labour Court in ID.No.125 of 2017 order dated 29.07.2020 and quash the same in repect of portion of the order to the respondent to pay 25% of back wages and consequently directing the respondent to pay full back wages and all other attendant benefits.

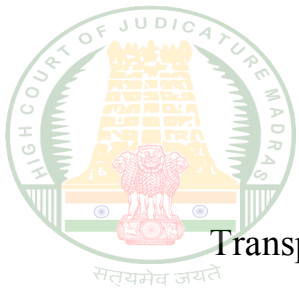
For Petitioner : Mr.D.Udhayasuriyan

For Respondent : Mr.A.Sundaravadhanan

COMMON ORDER

These Writ Petitions have been preferred as against the award passed by the Principal Labour Court, Coimbatore in I.D.No.125 of 2017 dated 29.7.2020.

2. The writ petitioner in W.P.No.22484 of 2022 is the respondent in W.P.No.21863 of 2021 and is a Conductor in Tamil Nadu State



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Transport Corporation. The writ petitioner in W.P.No.21863 and respondent in W.P.No.22484 of 2022, is hereinafter referred as Management. The writ petitioner in W.P.No.22484 of 2022 and the respondent in W.P.No.21863 of 2021, is hereinafter referred as workman.

3. The workman raised an Industrial Dispute in I.D.No.125 of 2017, challenging the dismissal order passed against him by the Transport Corporation/Management. The said Industrial Dispute was partly allowed and the order of dismissal was set aside with continuity of service with 25% of backwages.

4. Aggrieved by the said order of reinstatement with continuity of service and awarding 25% of backwages, the Management has preferred writ petition in W.P.No.21863 of 2021 and the workman preferred writ petition as against the denial of backwages of 75% in W.P.No.22484/2022.

5. Since, the present writ petitions are arising out of the same award, this Court is inclined to pass the common order.



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6. The short facts which are necessary for the disposal of these writ

petitions are as follows:

(a) The workman was appointed as a Conductor in the management- Transport Corporation on 08.06.1988. While so, on 23.05.2015, evening at about 4.45 pm, the workman saw the Branch Manager namely R.Ramesh Babu and told him that he wanted to talk to him about some personal issues, thereby both of them went to Branch Manager room; at that time, the workman made quarrel with the manager and attacked him and threatened him with dire consequences. Therefore, a police complaint was lodged against the workman and the FIR has been registered.

(b) For the above said misconduct, as per section 14(b), (k), (u) of th Standing Orders, charge memo was issued to the workman on 29.05.2015. Explanation was submitted by the workman on 16.06.2015 denying the allegations. Not satisfied with the explanation, domestic enquiry was conducted.



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(c) During the domestic enquiry, the workman has not participated

and sent a letter that he was unwell and hospitalized. Thereafter, Management again issued notice and lastly he attended the domestic enquiry on 16.06.2015 and requested for furnishing of the documents relied on by the management.

(d) The enquiry officer, after enquiry rendered his findings that charges against the workman were proved. Thereafter, the Management issued 2nd show cause notice and the same was challenged by the workman before this Court through writ petition. Thereafter, the Management passed dismissal order and thereby, the writ petition was dismissed.

(e) Hence, challenging the said dismissal order, the workman raised an industrial dispute before the Labour Court. After trial, the Labour Court set aside the dismissal order passed by the Disciplinary Authority and awarded 25% of backwages with continuity of services through order dated 29.07.2020.



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(f) The workman challenged the award of the Labour Court in

respect of denial of full backwages and the management challenged the award of Labour Court for granting reinstatement with continuity of service and 25% of back wages.

7. The learned counsel for the management would submit that the workman was working under the Management. While so, on 23.05.2015, evening, he made quarrel with the Branch Manger namely R.Ramesh Babu and assaulted him and also caused criminal intimidation; to that effect, police complaint was lodged and FIR has been registered against the workman. Thereafter, charges were framed for the above said misconduct and initially the workman not attended that enquiry and thereafter, he attended the enquiry. As per the enquiry report, the charges levelled against the workman were proved. Therefore, the disciplinary authority after sending 2nd show cause notice called for explanation. The workman given explanation. Perusing the said explanation submitted by the workman, the management not satisfied with the same, awarded punishment of dismissal from service.



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7.1. It is further submitted by the learned counsel for the management that challenging the order of dismissal, the workman raised an Industrial Dispute in I.D.No.125 of 2017. The I.D., was allowed by setting aside the punishment awarded by the disciplinary authority with continuity of service with 25% of backwages. The Award passed by the Labour court is based upon the cardinal principle of law in a criminal trial and the acquittal order passed by the Criminal Court. In the disciplinary proceedings, the standard of proof and the proceedings operate with different objectives. In the case on hand, the witnesses examined at the time of domestic enquiry have categorically stated about the alleged assault made by the workman and the said misconduct has been proved through evidences. The Labour Court has erred in giving much stress on the acquittal of the workman by the criminal court. Therefore, the said award passed by the Labour Court is liable to be quashed. Therefore, the writ petition filed by the workman is liable to be dismissed and the writ petition filed by the Management is liable to be allowed.

8. The learned counsel for the workman would submit that the domestic enquiry was not conducted by following principles of natural



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justice. The charges before the disciplinary authority and the Criminal

Court are identical and the Criminal Court acquitted the workman from the charges. The witnesses before the Criminal Court and domestic enquiry, are one and the same. Since the Criminal Court acquitted the workman from the charges, the Labour Court correctly set aside the punishment awarded by the disciplinary authority, however, only awarded 25% of backwages. Once the Labour Court awarded for reinstatement, the Labour Court ought to have awarded full backwages and there are no reasons to deny the remaining backwages. Therefore, the award passed by the Labour Court in respect of denying 75% of backwages is liable to be quashed and award setting aside the dismissal order passed by the management with continuity of service are liable to be confirmed. Therefore, the writ petition filed by the Management is liable to be dismissed and the writ petition filed by the workman is liable to be allowed.

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

10. In the present writ petitions, both the workman as well as the



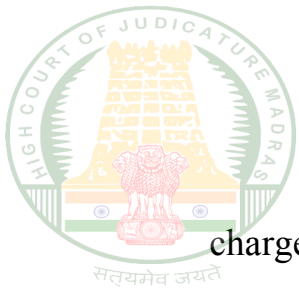
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Management challenged the award passed by the Labour Court. The

Management preferred writ petition as against the award of reinstatement with continuity of service with 25% of backwages. The workman challenged the award for non granting of full backwages.

11. There is no dispute in respect of relationship between the parties as employer and the workman. The charges against the workman was that on 23.05.2015, the workman assaulted the Branch Manager namely R.Ramesh Babu and caused criminal intimidation. The Management framed charges for the above said misconduct and charge memo has been issued. In the domestic enquiry, the workman participated and thereafter, the enquiry officer rendered his findings holding that charges were proved. Thereafter, the Management awarded punishment of dismissal from service after giving opportunity.

12. The dismissal order passed by the Disciplinary Authority was challenged by the workman before the Labour court on the grounds that (i) no principles of natural justice have been followed (ii) already the Criminal Court acquitted the workman for the identical charges (iii) the



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charges before the Criminal Court and the disciplinary enquiry are same and identical and the witnesses are also same. Therefore, the Labour Court, based on the judgement of acquittal passed by the Criminal Court, set aside the dismissal order passed by the disciplinary authority.

13. In the present case, the Labour court, after elaborate discussion, came to a conclusion that the victim did not sustain any injury and no medical records were produced and there is no sufficient evidence for the threat caused by the workman. Therefore, on the findings that there is no acceptable evidence to prove the charges levelled against the workman, the Labour court set aside the dismissal order passed against the workman.

14. Further, the learned counsel for the Management relied on a judgement of the Honourable Supreme Court in the case of ***G.M. Tank Vs. State of Gujarat and another.***, reported in ***CDJ 2006 SC 415***, wherein, in para No.20, the Hon'ble Apex Court, held as follows:

“20. In the case of Capt.M.Paul Anthony Vs.Bharat Gold Mines Ltd. & Anr.(supra), the question before this Court was as to whether the departmental



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proceedings and the proceedings in a criminal case launched on the basis of the same set of facts can be continued simultaneously. In paragraph 34, this Court held as under:

“34. There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely 'the raid conducted at the appellant's residence and recovery of incriminating articles therefrom'. The findings recorded by the enquiry officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by police officers and panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the enquiry officer and the enquiry officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the Court, on a consideration of the entire evidence, came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the “raid and recovery” at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the exparte departmental



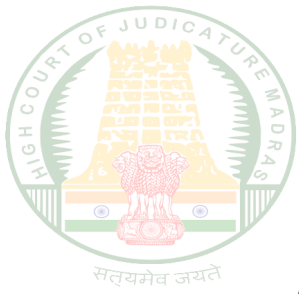
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proceedings to stand.”

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15. On a careful perusal of the aforesaid judgment, this court is of the considered view that the above said decision is not applicable to the present facts of the case because in that case, the accused was acquitted on the ground that the raid and recovery at the residence of the appellant were not proved. Whereas, in the case on hand, in both the proceedings charges are identical and the witnesses are one and the same and the Criminal Court acquitted the accused on the ground that there is no evidence and the witnesses have not deposed about the attack made by the workman and the acquittal is Honourable acquittal. Therefore, the aforesaid case laws cited by the learned counsel for the Management, no way helpful to decide the case in favour of the management.

16. The learned counsel for the respondent relied upon the decision of this Court in the case of *Managing Director Rangapuram Vs. The Presiding Officer, Labour Court, Vellore and another* in W.P.No.16718 of 2003 and W.M.P.No.624 of 2008 dated 03.03.2017, wherein this Court held as follows:



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“In our opinion, such facts and evidence in the department as well as criminal proceedings were the same without there being any iota of difference, the appellant should succeed. The distinction which is usually proved between the departmental and criminal proceedings on the basis of the approach and burden of proof would not be applicable in the instant case. Though finding recorded in the domestic enquiry was found to be valid by the Courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of and the decision in Paul Anthony's case (supra) will apply. We therefore, hold that the appeal filed by the appellant deserves to be allowed.”

On a careful perusal of the said judgment it is clear that though finding recorded in the domestic enquiry was found to be valid by the Courts below, when there was an honourable acquittal of the employee during the pendency of the proceedings challenging the dismissal, the same requires to be taken note of.

17. Therefore, the judgments relied on by the learned counsel for the workman, in support of his case, is squarely applicable to the present facts of the case. Therefore, the order passed by the Labour court, setting aside the punishment of dismissal from service awarded by the disciplinary authority, and awarding continuity of service, is perfectly in



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order and the same need not be interfered.

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18. As far as backwages are concerned, the Labour Court given findings that no sufficient evidence was let in by the Management to prove that the workman was gainfully employed elsewhere during that time and the pleadings are insufficient to hold so. It is well settled law that the workman has to plead about his non gainful employment during the termination period. This Court, after perusing the entire materials found that the workman has not pleaded that he was not gainfully employed, rather he only stated that he is running his family with great difficulty. Therefore, in the considered opinion of this court, the direction of the Labour Court to the Management to pay 25% of backwages to the Workman, is also found to be legally sustainable and the same need not be interfered.

19. It is well settled law that unless there is a perversity or illegality in the Award passed by the Labour Court, the same need not be interfered. Therefore, in view of the aforesaid discussion, this Court is of the opinion that the award passed by the Labour Court is well reasoned



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order and this court finds no any illegality or perversity in the order passed by the Labour Court. Therefore, the award does not warrant any interference. Therefore, both writ petitions filed by the Management as well as the Workman, have no merits and deserves to be dismissed.

20. In the result,

- (i) W.P.No.21863 of 2021 filed by the Management and
- (ii) W.P.No.22484 of 2020 filed by the workman are dismissed.

No costs. Consequently, connected Miscellaneous petition is closed.

22.7.2025

Index : Yes/No
Neutral citation : Yes/No
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To

1.The Principal Labour Court, Coimbatore.

2.The Management,
Tamil Nadu State Transport Corporation (Coimbatore) Ltd,
No.37, Mettupalayam Road,
Coimbatore.



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P.DHANABAL,J.

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