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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.23191 of 2023

M.Muruganandam

... Petitioner

Vs

The Management,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam Road,
Coimbatore – 641 043.

... Respondent

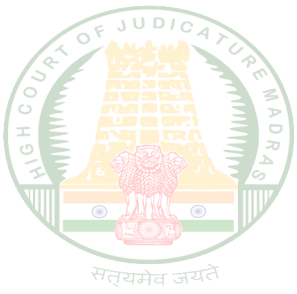
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, after calling for the records relating to the Award dated 14.06.2022 of the Principal Labour Court, Coimbatore passed in I.D. No.108 of 2019, and quash the same and consequently direct the respondent to reinstate the petitioner in service with continuity and with back wages and other attendant benefits.

For Petitioner : Mr.S.T.Varadararajalu

For Respondents : M/s.A.Vinothraj

ORDER

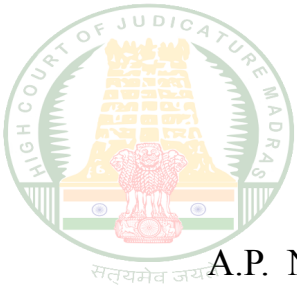
This writ petition has been filed by the petitioner to quash the award passed by the Labour Court, Coimbatore in I.D. No.108 of 2019 dated 14.06.2022.



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2. A short facts necessary to dispose this writ petition are as follows:

The petitioner joined the service of the petitioner/management as a driver on 14.07.1992. Due to continuous work, he developed knee pain and informed the Branch Manager of the Palani Depot about his condition. He then underwent medical treatment for the knee pain, but there was no improvement. As a result, he became unable to drive the bus. Thereafter, he informed the Branch Manager of his inability to perform duty and requested that he may be sent to Medical Board to assess his disability. In the meantime, the Branch Manager submitted a report stating that the petitioner had been absent from duty since 15.12.2009 without intimation. Subsequently, a charge memo dated 12.01.2010 was sent to the petitioner's old address, which he did not receive. On 14.12.2011, he submitted a representation along with a medical certificate, requesting medical leave from 02.12.2011 to 31.01.2012. However, the petitioner was directed to appear before the legal section on 24.12.2011 without producing a fitness certificate. Thereafter the management conducted domestic enquiry. The enquiry notice sent to the petitioner's old address was returned as unserved, and the petitioner was set ex parte. Thereafter, the petitioner was dismissed from service on 02.04.2012. The management filed an Approval Petition in



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A.P. No. 130 of 2012, which was allowed. Subsequently, the petitioner raised an Industrial Dispute in I.D. No. 108 of 2019 before the Labour Court, Coimbatore. The Labour Court dismissed the Industrial Dispute by an award dated 14.06.2022. Aggrieved by the said order, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner was appointed as a driver in the respondent management on 14.07.1992. Due to a knee problem, he availed leave after informing the Branch Manager and also requested that he may be referred to a Medical Board. However, instead of forwarding the request to the Medical Board, the Branch Manager referred him to a Medical Officer. The management subsequently sent a report stating that the petitioner had absented himself from duty without intimation from 15.12.2009. Thereafter, the respondent management issued a charge memo to the petitioner's old address, as a result of which, he did not receive the charge memo. Following this, enquiry proceedings were initiated against the petitioner. Without properly serving notice on him, the disciplinary proceedings were conducted ex parte, and the respondent passed an order dismissing the petitioner from service on 02.04.2012. Subsequently, the respondent filed an Approval



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Petition, before the Approval Authority in A.P. No. 130 of 2012, which was allowed without giving the petitioner an opportunity to be heard. Therefore, the petitioner raised an Industrial Dispute in I.D. No. 108 of 2019 before the Principal Labour Court, Coimbatore. Before the Labour Court the petitioner was examined as WW-1, and Exhibits W-1 to W-6 were marked on his behalf. On the side of the respondent/management, MW-1 was examined, and Exhibits M-1 to M-25 were marked. The Labour Court, without properly appreciating the evidence adduced by the petitioner, erroneously dismissed the petition. The Enquiry Officer appointed by the respondent was a retired officer and conducted the enquiry in a biased manner. The petitioner's submissions were not properly recorded during the enquiry. The petitioner had rendered nearly 20 years of unblemished service. During his entire career, he had remained absent only once, for which he had submitted a leave letter dated 15.12.2009 as Ex.W.1. The petitioner has since reached the stage of superannuation, in order to amicably resolve the issue, he expressed his willingness to forgo back wages, without prejudice to his right to claim full service benefits. Therefore, the petitioner may be granted continuity of service with consequential benefits. The Labour Court failed to exercise its powers under Section 11(A) of the Industrial Disputes Act. In any event, the



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punishment imposed for unauthorized absence is excessively harsh. Hence, the punishment awarded by the Labour Court, is liable to be set aside.

4. The learned counsel appearing for the respondent would submit that the petitioner was unauthorizedly absent from service without any intimation. Accordingly, disciplinary proceedings were initiated, and after affording the petitioner an opportunity of hearing the department awarded the punishment of dismissal from service. There is no illegality or infirmity found in the disciplinary proceedings. The management filed an Approval Petition in A.P. No. 130 of 2012, and the same was allowed. Subsequently, the petitioner raised an Industrial Dispute in I.D. No. 108 of 2019 before the Principal Labour Court, Coimbatore. After elaborate discussions, the Labour Court correctly dismissed the petition. Therefore, the Labour Court passed a reasoned order, and the present writ petition is liable to be dismissed.

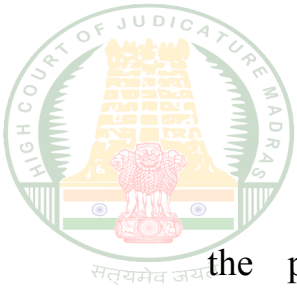
5. This Court heard both sides and perused the materials available on record.



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6. In this case, it is an admitted fact that the petitioner was appointed as a driver by the respondent management. Due to the petitioner's absence from duty, a charge memo was issued, and the petitioner participated in the disciplinary enquiry proceedings. Subsequently, the disciplinary authority passed an order dismissing the petitioner from service. The Labour Court, in its preliminary award rendered findings that the domestic enquiry conducted by the respondent is not proper and valid and the same was set aside. During the Labour Court proceedings, the respondent / management examined witness MW-1 and marked exhibits M-1 to M-25, and on the side of the petitioner / workman, he examined witness WW-1 and marked Exhibits W-1 to W-5. After elaborate consideration of the evidence, the Labour Court held that the petitioner has been absented himself without authorization, which is in violation of 15(e) of the Standing Order. The petitioner himself admitted that he was being absented from 15.12.2009, which establishes his unauthorized absence.

7. The petitioner submitted a medical certificate (Ex.W.4) requesting medical leave from 02.12.2011 to 31.01.2012; however, the charge is related to unauthorized absence commencing on 15.12.2009, i.e., prior to the medical leave period. Therefore, the Labour Court fairly concluded that



the petitioner was absented from service without intimating the management for the relevant period. The disciplinary authority imposed the punishment of dismissal from service, which was upheld by the Labour Court.

8. It is also admitted fact that the petitioner approached the respondent management and explained about the physical condition, specifically his knee ailment was brought to the attention of the respondent. Without considering the physical condition of the petitioner for the unauthorized absent the disciplinary authority awarded punishment of dismissal from service and the same is disproportionately harsh. Therefore, the punishment awarded by the disciplinary authority is liable to be set aside. Since the petitioner was retired from service on superannuation, in the interest of justice and fairness, it is appropriate to direct the respondent to grant pensionary benefits with continuity of service, with appropriate calculations, without any back wages.



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9. With the above said terms, this writ petition is allowed. No costs.

04.07.2025

drl

Speaking/Non Speaking

Index : Yes / No

Internet : Yes / No

To

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No.37, Mettupalayam Road,
Coimbatore – 641 043.

2. The Principal Labour Court,
Coimbatore.



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P.DHANABAL, J.,

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