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W.P.Nos.28369 & 34346 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.7.2025

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THE HONOURABLE MR.JUSTICE P.DHANABAL

W.P.Nos.28369 & 34346 of 2022

and

W.M.P.No.27675 of 2022

W.P.No.28369 of 2022:

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

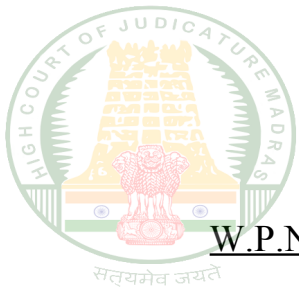
Vs

D.Kalingaraj 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.69 of 2019 on the file of the Additional Labour Court, Coimbatore dated 10.12.2021 and quash the same.

For Petitioner : Mr.P.Dineshkumar
for Mr.T.Chandrasekaran

For Respondent : Ms.H.Nandhini



W.P.Nos.28369 & 34346 of 2022

W.P.No.34346 of 2022

WEB COPY

D.Kalingaraj

.... Petitioner

Vs.

The Management,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam salai,
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 records pertaining to the award dated 10.12.2021 in ID.No.69 of 2019 passed by the Additional Labour Court, Coimbatore, quash the same in so far as denying the petitioner continuity of service, other attendant benefits and 50% backwages and consequently direct the respondent corporation to grant and pay the petitioner continuity of service, other attendant benefits and 50% backwages in addition to the reliefs already granted, award costs.

For Petitioner : Ms.H.Nandhini

For Respondent : Mr.P.Dineshkumar
for Mr.T.Chandrasekaran

COMMON ORDER



W.P.Nos.28369 & 34346 of 2022

WEB COPY These Writ Petitions have been filed to quash the award passed by the Labour Court in I.D.No.69 of 2019 on the file of the Additional Labour Court, Coimbatore dated 10.12.2021. The petitioner in W.P.No.28369 of 2022 and respondent in W.P.No.34346 of 2022 hereinafter will be referred as management and the petitioner in W.P.No.34346 of 2022 and respondent in W.P.No.28369 of 2022 hereinafter will be referred as workman.

2. The short facts are necessary to dispose of these writ petitions are as follows:

The workman was appointed as a Conductor under the management. He was charged with misappropriation of money, and thereby a charge memo was issued for a shortage of collection money to the tune of Rs.47,255.50/- at the time of audit dated 06.08.2015 at Maruthamalai bus depot and also not remitted the money to the tune of Rs.3,600/- arising out of sale of water bottles on 05.07.2015. The workman was suspended from service on the date of 06.08.2015. Subsequently, a domestic enquiry was conducted, and the enquiry officer



W.P.Nos.28369 & 34346 of 2022

rendered findings that the charges were proved. Thereafter, the Management issued a show cause notice to the workman, who was subsequently dismissed from the service on 04.11.2016. The workman challenged the said dismissal order before the Additional Labour Court, Coimbatore by raising an Industrial Dispute in ID.No.69 of 2019. The Labour Court allowed the dispute, by setting aside the dismissal order and granting reinstatement with 50% of back wages. Aggrieved by the said order, the Management preferred writ petition in WP.No.28369 of 2022, against the setting aside of the dismissal order, the grant of reinstatement and the award of 50% of backwages. The workman preferred writ petition in W.P.No.34346 of 2022, seeking continuity of service and the remaining 50% of backwages.

3. Since, these writ petitions arising out of the same award, this Court is inclined to pass a common order.

4. The learned counsel for the management would submit that the workman, appointed as a conductor under the Management, was charged with misappropriation of money that there is a shortage of collection



W.P.Nos.28369 & 34346 of 2022

money to the tune of Rs.47,255.50 and failed to remit the sale price of water bottles to the tune of Rs.3,600/- on 05.07.2015. A domestic enquiry was conducted, and after examining witnesses, the enquiry officer rendered findings that charges against the delinquent were proved. Thereafter, 2nd show cause notice was issued and then the Management imposed the punishment of dismissed from service vide order dated 04.11.2016. Aggrieved by the said order, the workman raised an Industrial Dispute before the Additional Labour Court, Coimbatore, in ID No.69 of 2019. The Labour Court, without considering the evidence adduced by the Management side or seriousness of the charges, erroneously allowed the Industrial Dispute (ID), set aside the order passed by the disciplinary authority and granted reinstatement of service with 50% of back wages. Therefore, the award passed by the Labour Court in respect of setting aside of the dismissal order, the relief of reinstatement, and the award of 50% of back wages are liable to be quashed.

5. The learned counsel for the workman would submit that the workman was appointed as a conductor in the petitioner's corporation. He was charged with misappropriation of money, specifically an alleged



W.P.Nos.28369 & 34346 of 2022

WEB COPY

shortage of collection money to the tune of Rs.47,255.50 and failed to remit the sale price of water bottles to the tune of Rs.3,600/-. The workman denied the charges leveled against him. In order to substantiate the charges leveled against the workman, no sufficient evidences were adduced by the Management. However, the disciplinary authority accepted the findings of the enquiry officer that the charges were proved and awarded the punishment of dismissal from service. When the same was challenged before the Labour Court during the preliminary enquiry, the Labour Court passed a preliminary award stating that the domestic enquiry was vitiated as biased and perverse. Subsequently, no witnesses were examined to prove the alleged misappropriation of money, and no independent witnesses were examined to prove the aforesaid misappropriation of money. Therefore, the Labour Court correctly set aside the punishment awarded by the disciplinary authority and granted reinstatement. However, it failed to award full backwages and continuity of service. Therefore, the award passed by the Labour Court in respect of reinstatement of service is liable to be confirmed, and declining to grant entire back wages with continuity of service is liable to be quashed.

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



W.P.Nos.28369 & 34346 of 2022

WEB COPY 7. In this case, the workman was charged with misappropriation of money alleging that there is a shortage of collection money to the tune of Rs.47,255.50 and failed to remit the sale price of water bottles to the tune of Rs.3,600/- on 05.07.2015. Subsequently, a domestic enquiry was conducted. As per the domestic enquiry report, the charges were proved, and thereafter the Management awarded punishment of dismissal from service after issuing a second show cause notice. This punishment was challenged before the Labour Court by raising an Industrial Dispute.

8. According to the workman, he was employed as a conductor but was compelled to act as a cashier from the month of June 2015, and he was not a qualified cashier. It is an admitted fact that a preliminary enquiry was already conducted, and inspite of that the management failed to produce any evidences and documents. As per the audit report, the collection money to the tune of Rs.47,255.50 was not remitted. For which, the workman offered an explanation that lower denomination currencies would not be normally accepted by the bank and it was his usual practice to exchange currencies for larger denominations to enable remittance in the bank. The workman also listed the name of shopkeepers



W.P.Nos.28369 & 34346 of 2022

involved in currency exchange at the time of domestic enquiry. However, the said point was relied upon by the Labour Court during the preliminary enquiry. Despite this, no independent witnesses were examined on the side of the Management to prove that the petitioner intended to misappropriate the money.

9. As far as the other charge in respect of non-remittance of sale money from water bottles to the tune of Rs.3600/-, the workman claimed that his almirah and table locker keys were taken away by one Ganesh babu, which prevented him from remitting the money on time. However, the said Ganesh babu was not examined as a witness. Moreover, the workman remitted the balance amount immediately after the audit, but the explanation offered by the workman was not accepted by the management.

10. In this context, the Labour Court, after considering all these aspects, allowed the Industrial Dispute and set aside the dismissal order, finding no illegality or perversity in the order passed by Labour Court. The Labour Court also awarded reinstatement with 50% of back wages but Court failed to pass an award regarding continuity of service. Since



W.P.Nos.28369 & 34346 of 2022

there are no any pleadings in respect of non-gainful employment by the workman, it is appropriate to confirm the award passed by the Labour Court in respect of 50% of backwages. However, the workman is entitled to continuity of service. Therefore, the writ petition filed by the management is liable to be dismissed, and the writ petition filed by the workman is modified to the effect that the petitioner is entitled to reinstatement of service with continuity of service, 50% of backwages and all other attendant benefits.

11. With the aforesaid modifications, the writ petition filed by the workman in W.P.No.34346 of 2022 is partly allowed and the writ petition filed by the Management in W.P.No.28369 of 2022 is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

22.7.2025

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

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1.The Additional Labour Court, Coimbatore.

2.The Management,
Tamil Nadu State Transport Corporation,
No.37, Mettupalayam salai,
Coimbatore.



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P.DHANABAL,J.

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