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W.P. No.32685 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

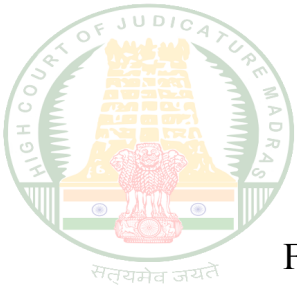
W.P. No.32685 of 2022
and W.M.P. No.32070 of 2022

The Management,
Managara Pokkuvarathu Oozhiyar Sangam,
Pallavan Illam,
Pallavan Salai,
Chennai-600 002.
represented by its Managing Director .. Petitioner
vs.

The General Secretary,
State Transport Employees' Union,
No.73, M.T.S. Joint - C.I.T.U.,
No.2, Pallavan Salai,
Kalaiyaranga Valagam,
Chennai-600 002. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records of the Principal Labour Court pertaining to its Proceedings in O.P. No.166 of 2019 and quash the order dated 21.03.2022 and consequently confirm the order of punishment dated 31.05.2017 passed by the petitioner Management.

For Petitioner : Mr.A. Vinothraj



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For Respondents : Mr. S.T. Varadarajulu

ORDER

This Writ petition has been filed by the petitioner Management challenging the order passed by the Principal Labour Court, Chennai in O.P. No.166 of 2019 dated 21.03.2022.

2. The short facts necessary to dispose the Writ petition are as follows:-

One of the Members of the respondent Union namely Mr. Naser has been charged for damaging the flower pot on 09.12.2014 at Pallavan Building, MTC Head Quarters during agitation. In furtherance of the above said act, Mr. Naser was suspended from service on 20.12.2014. Thereafter, he was issued a Charge Memorandum on 05.01.2015 and an explanation was given by him on 23.01.2015. Thereafter, the suspension was revoked and the said Naser joined duty on 09.04.2015. Being not satisfied with the explanation submitted by the said Naser, the petitioner department ordered for domestic enquiry and the said Naser also participated in the enquiry proceedings and the Enquiry Officer submitted his findings that 'charges were not proved'. Thereafter, the Management issued a Show Cause Notice dated 20.04.2017 and the explanation was called for from the delinquent. The said Naser also

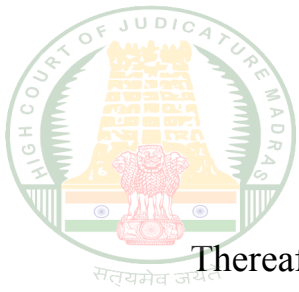


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requested the Management to give a copy of the enquiry report. While so, without serving the copy of the enquiry report, the petitioner Management awarded punishment of withholding increment for a period of 3 months with cumulative effect through an order dated 31.05.2017. Further the suspension period was treated as leave. Therefore, the respondent Union raised an industrial dispute before the Labour Court. The Labour Court, allowed the petition and the punishment awarded by the petitioner Management was set aside through an order in O.P. No.166 of 2019 dated 21.03.2022. Now the said order is under challenge by the Management.

3. The learned counsel appearing for the petitioner Management would submit that on 09.12.2014 at Pallavan Building, MTC Head Quarters, there was an agitation where the employee of the Corporation namely Naser involved in violence along with other employees and had caused loss to the Management by damaging the Corporation properties. Therefore, for the alleged misconduct, the employee was issued with a Charge Memo dated 05.01.2015. Having received the said Charge Memo, the employee had submitted his reply denying the charges. Since the explanation of the employee was not satisfactory, a domestic enquiry was ordered and thereafter, the enquiry officer had submitted the enquiry report on 30.10.2015.

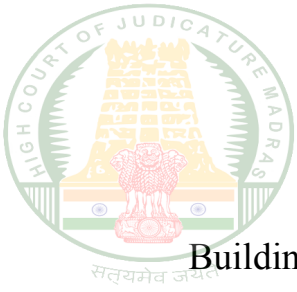


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Thereafter, a subsequent Show Cause Notice was also issued to the employee.

Considering the misconduct committed by the employee as stated in Section 25(xxiii) of the Standing Orders of the Corporation, a punishment of withholding of increment for a period of three months with cumulative effect, was imposed. Being aggrieved by the said punishment, the respondent Union approached the Labour Court in O.P. No.166 of 2019 and the same was allowed by the Labour Court through an order dated 21.03.2022. The Labour Court failed to consider the Diary Extract of the Head Office, in which, there was a specific observation against the employee that he had involved in violating act along with other employees and also caused damage to the properties of the management. The Labour Court failed to consider that the Management, only after careful consideration of the gravity of the misconduct done by the employee, had issued the subsequent Show Cause Notice. The punishment imposed to the employee was nominal. Therefore, the order passed by the Labour Court is liable to be quashed.

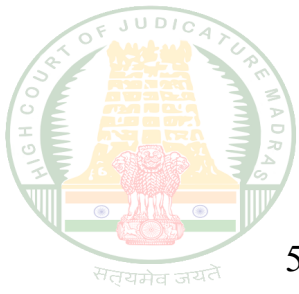
4. The learned counsel appearing for the respondent Union would submit that the petitioner Corporation issued a Charge Memo to the employee of the Corporation namely Naser alleging that he damaged the property belonging to the Corporation during the agitation on 09.12.2014 at Pallavan



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Building MTC Head Quarters and the same was suitably explained through an explanation submitted by the employee and thereafter, a domestic enquiry was conducted and the Enquiry Officer also had rendered his findings that no charges were proved against the delinquent. Irrespective of that, without perusing the findings of the Enquiry Officer, the petitioner Management has issued a Show Cause Notice, that too without serving the copy of the enquiry report to the delinquent and called for an explanation. When the delinquent sought for the copy of the enquiry report, without furnishing the copy, the petitioner Management had passed a final order by imposing punishment of withholding the increment for a period of 3 months with cumulative effect. Thereafter, the respondent Union raised an industrial dispute before the Labour Court and the Labour Court, after elaborate discussion, allowed the petition by holding that when the Enquiry Officer rendered findings that no charges were proved, without any order by either accepting the report or by diferring with the report, the petitioner Management issued a Show Cause Notice, that too, without furnishing the copy of the enquiry report. Therefore, from the conduct of the petitioner Management, ignoring the findings rendered in the enquiry report and issuance of the further Show Cause Notice, is highly illegal. Therefore, the present Writ petition is liable to be dismissed.



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

6. In this case, a Charge Memo was issued to one of the Members of the respondent Union namely Naser for damaging the properties of the petitioner Management during the agitation at Pallavan Building, MTC Head Quarters on 09.12.2014. Thereafter, an Enquiry Officer was appointed and the Enquiry Officer rendered findings that no charges were proved against the delinquent. There is no dispute that in the enquiry proceedings, an opportunity was given to the delinquent. However, the Disciplinary Authority / Management without perusing the report of the Enquiry Officer, had issued a further Show Cause Notice and imposed punishment of withholding increment for a period of 3 months with cumulative effect.

7. Once the Enquiry Authority rendered the findings, it is for the Disciplinary Authority to either accept the report or to differ with the report. But in the case on hand, without passing any order in respect of the findings of the Enquiry Officer, the petitioner Management had issued a Show Cause Notice to the delinquent, that too, without furnishing the copy of the Enquiry report to the delinquent. Therefore, the above said conduct of the petitioner



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Management / the Disciplinary Authority, by ignoring the findings rendered by the Enquiry Officer and without any reasons and without any order either to accept the report or to differ the enquiry report, has straight away issued a Show Cause Notice is illegal and is against law.

7. This aspect was also elaborately discussed by the Labour Court and the Labour Court rendered findings that no charges were proved against the delinquent and therefore, the punishment awarded by the petitioner Management vide order dated 31.05.2017 was set aside by the Labour Court. The above said order passed by the Labour Court is a well reasoned order and no perversity or illegality is found in the said order and hence the same does not warrant interference.

8. In view of the above discussions, this Court is of the opinion that the present Writ petition has no merits and deserves to be dismissed.

9. Accordingly, the Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

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Index : Yes/No

Speaking order/non-speaking order
mjs

To

The General Secretary,
State Transport Employees' Union,
No.73, M.T.S. Joint - C.I.T.U.,
No.2, Pallavan Salai,
Kalaiyaranga Valagam,
Chennai-600 002.

P. DHANABAL, J.,

mjs

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