



WP(MD)Nos.877 of 2021 and 8067 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 28.11.2025
PRONOUNCED ON : 10.12.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)Nos.877 of 2021 and 8067 of 2025 and
WMP(MD)Nos.739 and 17974 of 2021**

in WP(MD)No.877 of 2021

The Management,
Tamil Nadu State Transport Corporation Limited,
Kumbakonam, Nagapattinam Region,
rep by its General Manager,
Nagapattinam

...Petitioner

Vs

K.Kumar

...Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the records relating to the award passed by the Presiding Officer, Labour Court, Kumbakonam in ID No.16 of 2018 dated 20.09.2019, quash the same.

For Petitioner : Mr.S.C.Herold Singh
For Respondent : Mr.S.Arunachalam



WP(MD)Nos.877 of 2021 and 8067 of 2025

in WP(MD)No.8067 of 2025

K.Kumar

...Petitioner

Vs

The Management,
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd,
Kumbakonam, Nagapattinam Region,
rep by its Managing Director,
Kumbakonam.

...Respondent

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records from the Labour Court, Kumbakonam relating to the impugned preliminary award dated 01.08.2019 and the final award dated 20.09.2019 in ID.No.16 of 2018, quash the preliminary award dated 01.08.2019 and the portion of the final award dated 20.09.2019 in ID.No.16 of 2018 insofar as imposing the petitioner with the punishment of increment cut for 2 years and also denying him 50% back wages and consequently to direct the benefits as if he was continuing in service from 14.07.2015 to 30.06.2024 with all benefits, award cost.

For Petitioner : Mr.S.Arunachalam
For Respondent : Mr.K.Ramaiah

ORDER

These writ petitions are filed as against the award passed by the Labour Court, Kumbakonam in ID.No.16 of 2018, dated 20.09.2019.



WP(MD)Nos.877 of 2021 and 8067 of 2025

This industrial dispute was raised by the writ petitioner in WP(MD)No.8067 of 2025, as against the order of punishment imposed by the management for the delinquency committed by him. The Labour Court, Kumbakonam by its award dated 20.09.2019 held that the charges levelled as against the delinquent in the domestic enquiry was proved, however, the Labour Court has modified the punishment of dismissal as a punishment of stoppage of increment for a period of two years with cumulative effect. Therefore, the management has preferred the writ petition in WP(MD)No.877 of 2021 challenging the modification of the punishment by the Labour Court. Pending this writ petition, the employee has filed a writ petition in WP(MD)No.8067 of 2025 questioning the order of punishment of the Labour Court as well as the disciplinary authority claiming that the punishment has been imposed without proper enquiry, without furnishing the required documents and the passenger concerned has not been examined.

2.Since both writ petitions are arising out of the award passed in ID.No.16 of 2018, dated 20.09.2019 by the Labour Court, Kumbakonam, both these writ petitions are taken up together and are disposed of by this common order.



WP(MD)Nos.877 of 2021 and 8067 of 2025

3.For sake of clarity and convenience, the parties are referred to as the management and the employee / conductor.

4.The employee was working as a conductor in the Transport Corporation. He was allotted with duty in a bus bearing registration No.TN 68 No.0039 in route No.A-19 from Thanjavur to Sadaiyarkoil on 09.02.2014. The checking inspector en-route intercepted the vehicle and found that the conductor has received Rs.5/- from two passengers, who boarded the bus at Salaiyamangalam to go to Nagathevan Kudikadu and issued two tickets, of which one was an old ticket, which was issued by the very same conductor on the previous trip at about 5.15pm. The checking inspector found that the employee was carrying excess cash of Rs.62/- in the cash bag. Therefore, the checking inspector submitted his report.

5.Based on the report of the checking inspector, the employee was issued with a charge memo on 20.02.2014. The employee has offered his explanation denying the charges and therefore, an enquiry was conducted on 18.03.2014. The employee has appeared in the enquiry along with his



WP(MD)Nos.877 of 2021 and 8067 of 2025

defence assistant one Rajendran. The management has examined the checking inspector and produced 14 documents during the enquiry. After concluding the enquiry, the enquiry officer has submitted his report on 21.03.2014 holding that the charges levelled against the employee were proved. A copy of the enquiry report was furnished to the employee and a show cause notice was also issued on 21.03.2014 calling for his explanation. In response, the employee has submitted his explanation on 07.04.2014. Subsequently the disciplinary authority has issued 2nd show cause notice on 23.04.2014 on the proposed punishment of dismissal from service and the employee has offered his explanation on 20.05.2014. The disciplinary authority by considering the earlier punishments imposed on the employee (64 punishments), out of which, 3 punishments were imposed for similar misconduct, has passed an order of dismissal. The Joint Commissioner of Labour has also approved the order of punishment, under Section 33(2)(b) of the Industrial Disputes Act. Thereafter the employee raised the above industrial dispute before the Labour Court and during the proceedings, the management has marked 17 documents and in conclusion of the proceedings, the Labour Court by its award dated 20.09.2019 had found that all the charges



WP(MD)Nos.877 of 2021 and 8067 of 2025

levelled as against the employee were proved in the domestic enquiry and the punishment of dismissal from service imposed by the disciplinary authority is in consonance with law. However, the Labour Court considering that the employee has admitted his misconduct before the checking inspector, has modified the punishment from dismissal to an increment cut for two years with cumulative effect and ordered for reinstatement along with continuity of service and 50% of back wages.

6.The contention of the management is as under:

i.The employee / conductor was provided with sufficient opportunities during the disciplinary proceedings. The enquiry report was provided to him along with notice dated 21.03.2014 and he has also submitted his explanation. Thereafter the proposed punishment was also communicated to the employee by the disciplinary authority in the 2nd show cause notice on 23.04.2014, for which he has submitted his explanation. Therefore, there is no violation of principle of natural justice as alleged by the employee.



WP(MD)Nos.877 of 2021 and 8067 of 2025

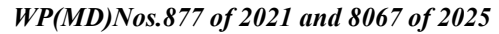
ii. The employee was involved in similar misconduct thrice, for which he has been imposed with minor punishments. Even thereafter, he has not rectified his mistake.

iii. Even on the date of inspection before the checking inspector, he has admitted his guilt, but later on he has retracted the same.

iv. When the Labour Court has found that the charges levelled as against the employee were proved and punishment was also imposed by taking into account his previous conduct, the Labour Court has simply modified the punishment without any reason, only on the ground that the delinquent himself has admitted the guilt before the checking inspector. The Labour Court has failed to look into the subsequent retracted statement of the employee.

7. On the other hand, the employee contends as follows:

i. The enquiry conducted by the management is not proper, since the relevant documents have not been furnished along with charge memo or during the enquiry. Therefore, the principles of natural justice was violated.



iii. The passenger, from whom the old ticket was recovered and the bus driver were not examined during the enquiry

i.Kashinath Dikshitha vs. Union of India [(1986) 3 SCC 229].

9. This court has considered the rival submissions made and also perused the materials placed on record.

i) Whether non examination of the passenger and non furnishing of the documents would affect the disciplinary proceedings?

ii) Whether the Labour Court is right in modifying the punishment imposed by the disciplinary authority without any valid reason?



WP(MD)Nos.877 of 2021 and 8067 of 2025

11. With regard to the first issue, the employee by filing this writ petition in the year 2025 has raised a plea that the documents have not been furnished to him during the enquiry. He has not raised this plea during the domestic enquiry. He was provided with opportunities to offer his explanation to the charge memo, to the enquiry report and also to the proposed punishment. The employee has taken this plea in this writ petition, when the writ petition filed by the management was taken up for final disposal. Therefore, it appears that he has raised this plea as an afterthought. During the domestic enquiry the management has marked 14 documents. He should have requested for those documents during enquiry itself or at least ought to have perused those documents. These documents were also marked through a witness before the Labour Court and therefore, the employee was aware of those documents. Moreover, the Hon'ble Supreme Court has settled this issue in the ***State of Punjab vs. Nachhattar Singh (Dead) Through LR [Civil Appeal No. 7257 Of 2022 (SLP (Civil) No.16535/2018, dated 13.10.2022]*** that mere non supply of documents cannot be a ground in domestic enquiry. Since the domestic enquiry is governed by the rule of preponderance of probabilities and the technical rule of evidence does



WP(MD)Nos.877 of 2021 and 8067 of 2025

not apply and it is not necessary to examine every third party witness.

The Hon'ble Supreme Court in yet another decision in ***State of Haryana and another vs Rattan Singh [(1977) 2 SCC 491]*** has held as under:

“4. It is well settled that in a domestic enquiry the strict and sophisticated rules of evidence under the Indian Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible.....The essence of a judicial approach is objectivity, exclusion of extraneous materials or considerations and observance of rules of natural justice. Of course, fairplay is the basis and if perversity or arbitrariness, bias or surrender of independence of judgment vitiate the conclusions reached, such finding, even though of a domestic tribunal, cannot be held good. However, the courts below mis-directed themselves, perhaps, in insisting that passengers who had come in and gone out should be chased and brought before the tribunal before a valid finding could be recorded. The 'residuum' rule to which counsel for the respondent referred, based upon certain passengers from American jurisprudence does not go to that extent nor does the passage from Halsbury insist on such rigid requirement. The simple point is, was there some evidence or was there no evidence not in the sense of the



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WP(MD)Nos.877 of 2021 and 8067 of 2025

*technical rules governing regular court proceedings but in a fair common-sense way as men of understanding and wordly wisdom will accept. Viewed in this way, sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a ending is certainty available for the court to look into because it amounts to an error of law apparent on the record. **We find, in this case, that the evidence of Chamanlal, Inspector of the flying squad, is some evidence which has relevance to the charge leveled against the respondent.** Therefore, we are unable to hold that the order is invalid on that ground.*

5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the reevaluation of the evidence on the strength of co-conductor's testimony is a



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WP(MD)Nos.877 of 2021 and 8067 of 2025

matter not for the court but for the administrative tribunal in conclusion, we do not think the courts below were right in over-turning the finding of the domestic tribunal.”

12.In view of the above authoritative pronouncements by the Hon'ble Supreme Court, this court answers the first issue that the non-examination of passenger and non-furnishing of documents would not affect the domestic enquiry.

13.Insofar as the second issue is concerned, the power of the Labour Court in case of discharge or dismissal of a workman is dealt with under Section 11 A of the Industrial Disputes Act and as per this section the Labour Court or the Tribunal, if satisfied that the order of discharge or dismissal was not justified, may by its award set aside the order of discharge or dismissal and shall order for reinstatement of the workman on such terms and conditions if any, as it thinks fit, or give such other relief to the workman including the award of any lesser punishment as the circumstances of the case may require. This power



WP(MD)Nos.877 of 2021 and 8067 of 2025

under Section 11A of the Industrial Disputes Act has been discussed by the Hon'ble Supreme Court in ***Mahindra and Mahindra Ltd vs N.B. Narawade [2005 (3) SCC 134]***, wherein the Hon'ble Supreme Court has held that Labour Court can modify the punishment under Section 11A of the Act only in limited circumstances and the same cannot be done by way of sympathy alone. The relevant portion is extracted as under:

“20.It is no doubt true that after introduction of Section 11-A in the Industrial Disputes Act, certain amount of discretion is vested with the labour court/Industrial Tribunal in interfering with the quantum of punishment awarded by the Management where the concerned workman is found guilty of misconduct. The said area of discretion has been very well defined by the various judgments of this Court referred to herein above and it is certainly not unlimited as has been observed by the Division Bench of the High Court. The discretion which can be exercised under Section 11-A is available only on the existence of certain factors like punishment being disproportionate to the gravity of misconduct so as to disturb the conscience of the court, or the existence of any mitigating circumstances which requires the reduction of the sentence, or the past conduct of the



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WP(MD)Nos.877 of 2021 and 8067 of 2025

workman which may persuade the Labour Court to reduce the punishment. In the absence of any such factor existing, the Labour Court cannot by way of sympathy alone exercise the power under Section 11-A of the Act and reduce the punishment.”

14.A perusal of the impugned award dated 20.09.2019 reveals that the Labour Court has modified the punishment imposed on the employee considering that he was employed with the Transport Corporation since 1998 and in his statement before the checking inspector he has admitted that he has mistakenly issued old ticket.

15.Merely because an employee has been employed for several years, the same cannot be a ground to modify the punishment. It is also pertinent to note that the employee has retracted the statement made to the checking inspector. Hence, it is not the case that he has admitted any misconduct. The standing order prescribes such punishment of dismissal. In this case the disciplinary authority has imposed by the punishment by considering the past conduct of the employee that he was imposed with



WP(MD)Nos.877 of 2021 and 8067 of 2025

64 punishments, of which three punishments were imposed on the similar delinquency. Therefore the second issue is answered that Labour Court is not justified in modifying the punishment without assigning valid reason.

16. In light of the above discussion, the impugned award dated 20.09.2019 passed in ID No. 16 of 2018 is set aside and the punishment imposed by the disciplinary authority is confirmed.

17. In the result, WP(MD)No.877 of 2021 filed by the management is allowed and WP(MD)No.8067 of 2025 filed by the employee is dismissed. No costs. Consequently connected miscellaneous petitions are closed.

10.12.2025

DSK
To

1. The Presiding Officer,
Labour Court, Kumbakonam.
2. The General Manager,
The Tamil Nadu State Transport Corporation Limited,
Kumbakonam, Nagapattinam Region,
Nagapattinam.
3. The Managing Director,
Tamil Nadu State Transport Corporation



WP(MD)Nos.877 of 2021 and 8067 of 2025

(Kumbakonam) Ltd,
Kumbakonam, Nagapattinam Region,

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WP(MD)Nos.877 of 2021 and 8067 of 2025

B.PUGALENDHI.J.,

DSK

**WP(MD)NoS.877 of 2021
and 8067 of 2025**

10.12.2025