



W.A.(MD)Nos.1192 of 2019 & 717 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 06.02.2025

Pronounced On : 18.02.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

W.A.(MD)Nos.1192 of 2019 & 717 of 2020
and
C.M.P.(MD)Nos.10324 of 2019 & 4220 of 2020

W.A.(MD)No.1192 of 2019

M.Subramani

... Appellant

Vs.

1.The Managing Director,
Tamil Nadu State Transport
Corporation, Madurai Division-4 Ltd.,
Dindigul.

2.The Presiding Officer,
Labour Court, Madurai.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against
the order dated 04.03.2019 made in W.P.(MD)No.12730 of 2009.

For Appellant : Mr.K.Appadurai

For R1 : Mr.J.Senthil Kumaraiah



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W.A.(MD)No.717 of 2020

The Managing Director,
Tamil Nadu State Transport Corporation,
Madurai Ltd.,
Dindigul Region,
Bypass Road, Collectorate P.O.,
Dindigul-624 004.

... Appellant

Vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.M.Subramani

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against the order dated 04.03.2019 made in W.P.(MD)No.11852 of 2009.

For Appellant : Mr.J.Senthil Kumaraiah

For R1 : Mr.K.Appadurai

COMMON JUDGMENT

(Judgment of this Court was delivered by **M.JOTHIRAMAN J.**)

These writ appeals have been filed against the common order passed in W.P.(MD)Nos.12730 & 11852 of 2009 dated 04.03.2019.

2.For the sake of convenience, the parties are referred to as their rank before the Labour Court. Brief facts of the case is as follows:-



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2(i). The case of the Management is that the workman collected excess fare from one of the passenger and failed to refund the same to the said passenger. The said passenger gave a complaint about the misconduct of the workman. Charge memo dated 05.02.2000 issued to the Workman and the Workman had also given his explanation on 15.02.2000 to the said charge memo. The Enquiry Officer held that the charges framed against the Workman were proved. Thereafter, the matter was referred to the Labour Court. The Labour Court after considering the oral and documentary evidence adduced on either side, passed the award dated 12.05.2004 in I.D.No.105 of 2003 directing the Management to reinstate the Workman in their service. However, the Labour Court rejected the claim of back-wages. Aggrieved over the same, the Management has preferred W.P.(MD)No.11852 of 2009 to quash the Labour Court's award and the Workman filed W.P.(MD)No. 12730 of 2009 seeking relief of Mandamus to the Management for reinstatement as well as for payment of back-wages. The learned Single Judge of this Court, vide common order dated 04.03.2019, dismissed the said writ petitions. Aggrieved over the same, the present writ appeals have been filed.



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3.The learned counsel appearing on behalf of the Workman would

submit that when the balance amount could not be given to the passenger by the Conductor, after taking the ticket fare, an endorsement will be made on the back side of the ticket that money is due. When the passenger approached the Corporation claiming the balance due, the Corporation ought to have directed the Workman to settle the due, as per the endorsement made on the back side of the ticket. On the contrary, the Corporation had initiated departmental action, which is not in accordance with law.

4.Per contra, the learned counsel appearing on behalf of the Management would submit that the Corporation Employees are bound to follow the Certified Standing Orders and any of the violation of the standing orders would liable to be punished. He would further submit that the Workman was committed severe misconduct, in accordance with the Certified Standing Orders and hence, charges were framed and after due enquiry, the charges were proved. The Workman already committed four misappropriations and he had record of 85 misconduct. The Labour Court was not at all seen the past records of the Workman, even though the Labour Court was confirmed the charges, which are proved against him. To Strengthen his contention, he has relied upon the judgment of



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the Hon'ble Supreme Court reported in **(2005) 3 SCC 254** in a case of

Divisional Controller, KSTRC (NWKRTC) Vs. A.T.Mane to show that when an employee is found guilty of misappropriating money from public, the Corporation losing confidence in such an employee and awarding punishment of dismissal from service is sustainable.

5.We have considered the submissions made on either side and perused the materials available in the record.

6.It is seen from the records that the appellant, Thiru M.Subramani was appointed as Conductor on 05.04.1988. While he was discharging his duty as Conductor on 08.12.1999 in the bus bearing Reg.No.TN57/N0852 plying in the route from Kumuli to Palani, on 09.12.1999, a passenger has given complaint to the Corporation that the Conductor told him that the fare from Kumuli to Oddanchatram was Rs.55/- and accordingly, the passenger paid Rs.110/-for two tickets. On the next day while the passenger verified the ticket and found that fare quoted in the ticket is Rs.33.50 only. The total value of two ticket comes to Rs.67/-. Thus the Conductor had collected an excess fare of Rs.43/- and have not accounted the excess amount collected from the traveller to the Corporation.



7.It is also seen from the records that since the act of the Conductor was a severe misconduct in accordance with the Certified Standing Orders, charges were framed against him and he was suspended from service pending enquiry, by an order dated 17.01.2000. Three charges were framed against him, which are as follows:-

1.The Workman had collected Rs.110/- from a group of two passengers, who have travelled from Kumuli to Oddachatram, but he issued tickets only for Rs.67/-, which is an offence under clause 16(65) and 16(19) of the Certified Standing Orders.

2.The balance amount of Rs.43/- neither he had given to the passengers concerned nor he remitted with the Office as excess and thereby, the Workman had misappropriated the corporation revenue which is an offence under Clasu 16(61) and 16(5) of the Certified Standing Orders.

3.The Workman had performed duty dishonestly and spoil the image of the corporation among the public, which is an offence under clause 16(12) of the certified standing order.

Thereafter, the Conductor has submitted his explanation on 15.02.2000, which was not satisfactory and therefore, an enquiry was conducted by giving an opportunity. After completion of enquiry, the Enquiry Officer submitted his report dated 15.04.2000 by holding that the Conductor is guilty of the charges. Therefore, the second show cause notice was issued

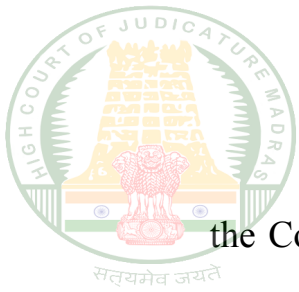


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to the Conductor on 25.04.2000 proposing the punishment. The

Workman had submitted his explanation on 30.05.2000, which was also found not satisfactory. Thereafter, the enquiry report was accepted considering the previous records of the Conductor, where he has suffered punishment for misappropriation four times and other type of punishments for 85 cases and finally, the Conductor was dismissed from the service by an order dated 08.08.2000. Aggrieved by the dismissal, the Conductor approached the Labour Court, Madurai by way of I.D. No. 105 of 2003. The Labour Court in its award dated 27.08.2014, concluded that the charges are proved and the misappropriation also proved and the findings of the Enquiry Officer also accepted. The Labour Court observed that the individual has not committed any serious misappropriation and the punishment given is in excess and further, directed the Management to reinstate the Conductor into service, within two months with continuity of service, but without back-wages and other benefits.

8.It is pertinent to mention that there is evidence of passengers, who had travelled in the bus and has given written complaint along with the tickets issued by the Conductor, which establishes the misconduct of



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the Conductor, based on which, a finding was given that the Conductor was guilty of the misconduct alleged. Based on the said findings the Discipline Authority issued an order of dismissal. The Labour Court set aside the punishment solely on the ground that misappropriation committed by the Conductor is not serious one and the punishment is in excess and therefore, directed the Management to reinstate the Conductor with continuity of service without back-wages and other benefits.

9. At this juncture, it is relevant to cite the judgment of the Hon'ble Supreme Court in Civil Appeal No.3644/2011 between U.P. State Road Transport Corporation and Pradeep Kumar, as follows:-

“9. Learned counsel for the appellant invited our attention to a decision of this Court in the case of Regional Manager, U.P. SRTC, v. Hoti Lal, [2003] 3 SCC 605 wherein, this Court has very categorically held that a mere statement that it is disproportionate would not suffice to substitute a lighter punishment. This Court held as under:

"The court or tribunal while dealing with the quantum of punishment has to record reasons as to why it is felt that the punishment was not commensurate with the proved charges. The scope for interference is very limited and restricted to exceptional cases. In the



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impugned order of the High Court no reasons whatsoever have been indicated as to why the punishment was considered disproportionate. Failure to give reasons amounts to denial of justice. A mere statement that it is disproportionate would not suffice. It is not only the amount involved but the mental set-up, the type of duty performed and similar relevant circumstances which go into the decision-making process while considering whether the punishment is proportionate or disproportionate. If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transactions or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court are not proper."

10.It is settled law that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration. The Conductor/Workman is found to be



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committed misappropriation of funds and there is nothing wrong in the Corporation losing confidence or faith in such a person and awarding a punishment of dismissal.

11. Therefore, we are of the firm view that the Conductor has committed serious misconduct as per the Certified Standing Orders and dismissing the writ petition filed by the Management in W.P.(MD) No.11852 of 2009 by the learned Single Judge is not correct and there are merits in the writ appeal filed by the Management and therefore, we are inclined to interfere with the orders passed by the learned Single Judge in W.P.(MD)No.11852 of 2009. Accordingly, the writ appeal filed by the Management in W.A.(MD)No.717 of 2020 is allowed and the writ appeal filed by the Conductor/Workman in W.A.(MD)No.1192 of 2019 is dismissed and the Labour Court award, dated 12.05.2004 in I.D.No. 105 of 2003 is hereby set aside. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.S., J.) & (M.J.R., J.)
18.02.2025

NCC : Yes / No
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G.R.SWAMINATHAN.J.
and
M.JOTHIRAMAN, J.

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Pre-Delivery Judgment made in
W.A.(MD)Nos.1192 of 2019 &
717 of 2020

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