



W.P.(MD)No.10114 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2025

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.10114 of 2018

R.Ramaraj

... Petitioner

Vs.

1. The Presiding Officer,
Labour Court,
Trichy.

2. The Management of
Tamil Nadu State Transport Corporation (Kumbakonam) Ltd.,
Trichy Region,
Rep. by its Managing Director,
Trichy.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records from the 1st respondent Labour Court relating to the impugned award dated 28.09.2017 in I.D.No.19 of 2014 passed by the 1st respondent, quash the same and consequently to direct the 2nd respondent to pay the full back wages from 24.12.2010 to 30.09.2012 and to settle all petitioner's terminal and pension benefits by giving continuity of service and all other amendment benefits up to the date of his retirement and award cost.



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For Petitioner : Mr.S.M.Mohan Gandhi
Mr.M.Perumal

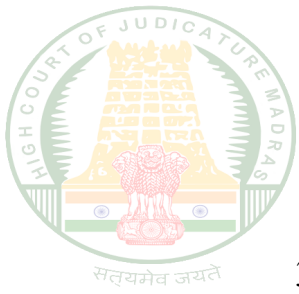
For R1 : Labour Court

For R2 : Mr.S.C.Herold Singh
Standing Counsel

ORDER

The present writ petition has been filed by the conductor who was working in the respondent transport corporation challenging the dismissal of I.D.No.19 of 2014 passed by the Labour Court, Trichy on 28.09.2017.

2. The petitioner herein who was working as a conductor in the respondent transport corporation was issued with a charge memo on 20.09.2006. A perusal of the charge memo reveals that he was charged with the allegation that after receiving a sum of Rs.8.50/- from a passenger he had not issued a ticket. The second charge as against the writ petitioner is that there was a shortage of Rs.30/- in his cash bag when the inspection was conducted.

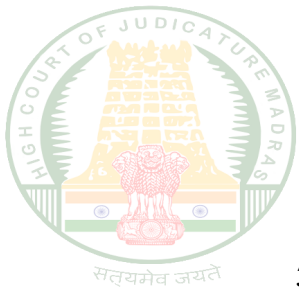


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3. The petitioner submitted his explanation stating that he had forgotten to issue ticket to the passenger in view of certain scuffle in the back side of the bus. He had further admitted that he had taken a sum of Rs.30/- from the cash bag for having lunch with his driver. Not being satisfied with the explanation, enquiry was conducted by the transport corporation and it was found that the charges as against the petitioner stood proved. The management has issued second show cause notice on 07.12.2006 pointing out 21 past misconducts and why punishment of termination should not be imposed.

4. The petitioner has submitted his explanation on 12.12.2006. After considering the explanation submitted by the petitioner, the management has proceeded to pass an order of dismissal on 24.12.2010. The management had approached the authorities under Section 33(2)(b) of the Industrial Dispute Act, 1947 seeking approval. Initially approval was not granted, the management had approached this Court and an order of remand was passed. After remand, approval was granted by the authority on 27.12.2012.



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5. The present claim petition was filed before the Labour Court in I.D.No.19 of 2014 on 27.01.2014. The Labour Court after considering the oral and documentary evidence filed on either side has proceeded to confirm order of dismissal passed by the management. Challenging the same, present writ petition has been filed.

6. According to the learned counsel appearing for the writ petitioner, due to a scuffle that was going on, in the back side of the bus, after receiving the cash from the passenger, the conductor has forgotten to issue a ticket. His minor misconduct should not have been treated as a serious misconduct and order of dismissal should not have been passed.

7. He further submitted that some of the staff members were also available in the bus and they are aware of the scuffle inside the bus. He further submitted that it is the practice of the driver and conductor of the bus to first utilize the money from the cash bag for having lunch and thereafter, adjust the same from the batta to be paid to the driver and conductor in the evening. He further submitted that at the time of dismissal, the petitioner was 56 years old and in view of the dismissal



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order, he would lose all his terminal benefits. He further pleaded that the order of the dismissal may be modified as an order of compulsory retirement, so that the petitioner would be in a position to get his terminal benefits and other pensionary benefits.

8. Per contra, learned Standing Counsel appearing for the respondent transport corporation pointed out that the petitioner has admitted his misconduct in his explanation submitted to the charge memo. The enquiry has been conducted in a fair manner. The Labour Court has also arrived at a finding that the charges as against the petitioner relating to misappropriation have been proved. In such circumstances, the only punishment that could be imposed as against the petitioner, is the order of termination.

9. He further pointed out that when the order of dismissal was passed, the petitioner was 56 years old and he had 21 past misconducts. Out of the said 21 misconduct, two of them are similar in nature. In such circumstances, the question of showing sympathy to the writ petitioner may not arise. Hence, he prays for confirming of the Award of the Labour Court.



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10. Heard the learned counsel on either sides and perused the materials available on record.

11. The charge memo as well as the explanation submitted by the writ petitioner would clearly reveal that the petitioner has admitted about the misconduct of not issuing ticket after receiving cash from the passenger. However, in order to prove the factual situation that prevailed in the bus, the petitioner has not chosen to examine any one of the passengers or the staff members who was alleged to be present in the bus.

12. That apart, though the petitioner has contended that it is the practice of the conductor to utilize the money from the cash bag for having lunch and thereafter, adjust the same in the batta paid during evening time, the petitioner has not chosen to examine any one of his colleagues to establish such a practice. In such circumstances, the charges as against the writ petition relating to misappropriation stood proved.



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13. As far as the request of the petitioner to modify the punishment from the order of dismissal to the order of compulsory retirement is concerned, in the second show cause notice, the management has pointed out 21 misconducts as against the writ petitioner. Out of the said 21 misconducts 2 of them relates to the charge that the petitioner has not issued a ticket after receiving money from the passengers. In such circumstances, this is the third occasion for the writ petitioner to involve in such a misconduct. Therefore, this Court is not inclined to entertain such request of the writ petitioner for modification of the punishment.

14. In view of the above said deliberations, this writ petition is dismissed. No costs.

12.06.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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R.VIJAYAKUMAR, J.

rgm

To

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