

W.P.(MD).No.18667 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 11.08.2025

ORDER PRONOUNCED ON : 19.08.2025

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.18667 of 2018
and WMP(MD).No.16513 of 2018**

The Management
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
Madurai Region
Bye-pass Road, Madurai 625 010.Petitioner

Vs

1.The Special Deputy Commissioner of Labour
Office of the Commissioner of Labour
Teynampet
Chennai 600 006

2.K.M.RameshRespondents

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 1st respondent in his proceeding in Approval Petition in A.P.No.213/2013 dated 14.09.2017, quash the same.

For Petitioner : Mr.J.Senthil Kumariah
For Respondents : M/s.D.Farjana Ghoushia
Special Government Pleader for R1
: Mr.G.M.Xavier for R2



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ORDER

WEB COPY The present writ petition has been filed by the management of the Tamil Nadu State Transport Corporation, Madurai Region challenging the order passed by the first respondent herein rejecting the application filed by the management under Section 33(2)(b) of the Industrial Disputes Act, 1947.

(A).Factual Background:

2.The second respondent herein, who was employed as a Conductor in the petitioner Transport Corporation was issued with a charge memo on 26.05.2012. After domestic enquiry, the charges as against the petitioner were found to have been proved. The second respondent was issued with a 2nd show cause notice on 27.03.2013 and the delinquent had submitted his explanation on 04.04.2013. Not being satisfied with the explanation, an order of dismissal came to be passed on 02.05.2013. Seeking approval of the dismissal order, the petitioner management has filed an application under Section 32(2)(b) of the Industrial Disputes Act before the first respondent. The said application was rejected on the following grounds:

- a)The domestic enquiry was not conducted in a fair manner and no proper opportunity was given to the delinquent.
- b)The management has not made out a prima facie case on the basis of the acceptable evidence during the domestic enquiry.



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c)The order of dismissal has been passed due to anti-labour

WEB COPY attitude of the management.

3.Challenging the above said order, the present writ petition has been filed by the management.

(B).Submissions of the learned counsels appearing on either side:

4.According to the learned counsel appearing for the writ petitioner, the second respondent herein who was employed as a Conductor had misbehaved with the Checking Inspector while he was on duty. The Conductor has tied his hands on his back side and took him to the police station on the allegation that the Checking Inspector was in a drunken mood. An F.I.R came to be registered as against the Checking Inspector which was later closed as 'mistake of fact'. When the Checking Inspector had demanded the Conductor to produce the invoices, the delinquent has committed the above said misconduct.

5.The approving authority had rejected the petition primarily on the ground that one of the passengers who had witnessed the said incident has not been examined. In case, if the passengers had been examined, the delinquent would have an opportunity to cross examine him. Other than this reason, no reason has been assigned by the approving authority.

6.The learned counsel for the petitioner management relied upon a judgment of the Hon'ble Supreme Court reported in **(2016) 16 SCC 16**



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(Management of Tamil Nadu State Transport Corporation (Coimbatore)

WEB COPY Limited Vs. M.Chandrasekaran) and contended that the examination of passengers is not mandatory for proving the charges and therefore, the enquiry proceedings or punishment imposed upon the delinquent would not get vitiated. He further submitted that the scope of enquiry to be conducted by the approving authority is limited and he can only verify whether the enquiry has been conducted in a fair manner. He had further submitted that the enquiry has been conducted after giving due opportunity to the delinquent. No such allegation was raised by him that the enquiry was not conducted in a fair manner. That apart, the misconduct of the Conductor was serious in nature that he had taken the Checking Inspector to the Police Station, just because he had demanded invoices from the Conductor on an allegation that he was in a drunken mood. Hence, he prayed for allowing the writ petition.

7.Per contra, the learned counsel appearing for the second respondent delinquent submitted that during morning hours, the same Checking Inspector had entered into the bus and he has threatened the Conductor when he demanded identity card. The Checking Inspector has got down from the bus. Later, during evening hours, he boarded the bus and created trouble in a drunken mood. Though he had shown the identity card, the Conductor was under the impression that in case if the invoices were handed over, he is



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likely to tear-off the same in view of his drunken mood. Therefore, the

Checking Inspector was handed over to the concerned police station. Merely because the complaint was closed as 'mistake of fact', due to the non-appearance of the complainant, the same cannot be taken advantage of by the management.

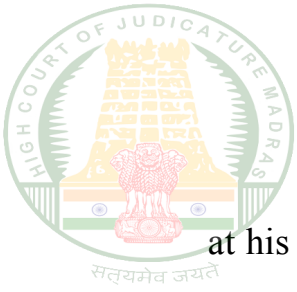
8. When a person creates a problem inside the bus in a drunken mood, it is quite natural that he would be handed over to the police. Therefore, the same cannot be considered to be a misconduct on the part of the Conductor. Just because he was involved in union activities, false charges have been levied as against him.

9. The learned counsel appearing for the second respondent further submitted that one of the passengers namely Thirupathi has given a statement that the Checking Inspector was in a drunken mood and he was not examined during the domestic enquiry. Hence, the approving authority has rightly arrived at a finding that the enquiry has not been conducted in a fair manner. Hence, he prayed for confirming the order of the first respondent.

10. Heard both sides and perused the material records.

(C).Discussion:

11. When the Checking Inspector was in Mufti and he was on duty and when he demanded the invoice from the Conductor, the Conductor had refused to share the invoice and had tied the hands of the Checking Inspector



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at his back and taken him to the Police Station on the alleged ground that the Checking Inspector was in a drunken mood. This conduct has brought to disrepute to the Corporation among the general public. This is sum and substance of the charges as against the second respondent.

12.Despite showing the identity the card, the Conductor has handed over the Checking Inspector to the police, on the ground that the Checking Inspector has picked up quarrel with him in a drunken mood. On the basis of his complaint, an F.I.R has been registered in Crime No.606 of 2014 on the file of the Inspector of Police, N.P.Kottai Police Station, Madurai District. Later, the same has been closed as 'mistake of fact'.

13.The facts narrated above will clearly indicate that when the Checking Inspector had demanded the invoices from the Conductor, the Conductor has picked up quarrel with the Checking Inspector and handed over him to the police on the alleged ground that the Checking Inspector was in a drunken mood. In fact, the hands of the Checking Inspector were tied on his back side and handed over to the police. This conduct of the delinquent is serious in nature. In case, if the delinquent had got any grievance over the Checking Inspector, he should have only made a complaint to the higher official and he cannot hand over him the police authority even after he had shown his identity card.



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14.The question of examination of passengers would arise only in cases where there is a allegation of non-issuance of tickets after receipt of fare. Even in those cases, the Hon'ble Supreme Court has held that the examination of passenger is not necessary. Therefore, the first respondent would not right in dismissing the approval application on the said ground. No other ground has been pointed out by the approving authority for rejecting the approval application.

15.The examination of the witnesses before the authority would clearly reveal that the Checking Inspector was on duty while the delinquent had misbehaved. When the Checking Inspector was cross examined by the delinquent during the domestic enquiry, no suggestions have been put to him that he was in a drunken mood. The approving authority has rejected the application on the sole ground that one of the passengers has not been examined. When the incident have been admitted by the delinquent, the non-examination of the passengers would not vitiate the order of dismissal.

(D).Conclusion:

16.In view of the above said deliberations, the order impugned in the writ petition is set aside and the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

19.08.2025.



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Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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To

1.The Special Deputy Commissioner of Labour
Office of the Commissioner of Labour
Teynampet
Chennai 600 006

2.The Record Keeper
Vernacular Section
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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