



W.P(MD).Nos.26173 of 2019 & 21708 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 20.08.2025

ORDER PRONOUNCED ON : 26.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**W.P.(MD).Nos.26173 of 2019 and 21708 of 2021
and WMP(MD).Nos.22623 of 2019,
18589 and 18596 of 2021**

W.P(MD).No.26173 of 2019:

The Management
Represented by its Managing Director
Tamil Nadu State Transport Corporation (Kumbakonam) Limited
New Railway Feeder Road
Kumbakonam 612 001
Thanjavur District

....Petitioner

Vs

K.Mehanathan (died)

2.M.Pugalnathan

3.M.Suvathi

4.M.Bhuvaneswaran

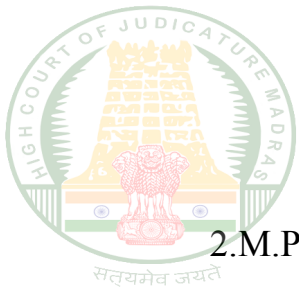
5.Nagammal

....Respondents

(Respondents 2 to 5 are impleaded vide Court order
dated 01.08.2025)

W.P(MD).No.21708 of 2021:

K.Mehanathan (died)



W.P(MD).Nos.26173 of 2019 & 21708 of 2021

2.M.Pugalnathan

3.M.Suvathi

4.M.Bhuvaneshwaran

5.Nagammal

...Petitioners

(Petitioners 2 to 5 are impleaded vide Court order dated 01.08.2025)

Vs

The Management of

Tamil Nadu State Transport Corporation (Kumbakonam) Limited

Represented by its Managing Director

Kumbakonam

....Respondent

Prayer in WP(MD).No.26173 of 2019 : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the award passed by the Labour Court, Kumbakonam in I.D.No.97 of 2018 dated 20.08.2019 and quash the same.

Prayer in WP(MD).No.21708 of 2021 : This Petition 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 award dated 20.08.2019 in I.D.No.97 of 2018, quash the same insofar as denying continuity of service, back wages and all other attendant benefits to the petitioner and consequently to direct the respondent to pay him the same, along with terminal and pension benefits for his entire service period from the date of his joining to the date of his retirement.

In WP(MD).No.26173 of 2019

For Petitioner : Mr.P.Balasubramanian

For Respondents : Mr.S.Arunachalam



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In WP(MD).No.21708 of 2021

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For Petitioners : Mr.S.Arunachalam

For Respondents : Mr.P.Balasubramanian

COMMON ORDER

The management of Tamil Nadu State Transport Corporation (Kumbakonam) Limited has filed the present writ petition challenging the award of the Labour Court, Kumbakonam in I.D.No.97 of 2018 dated 20.08.2019 wherein the punishment of dismissal imposed by the management was set aside and the delinquent was permitted to retire with all terminal benefits without backwages.

(A).Factual background:

2.The respondent herein who was working as a Conductor in the petitioner transport corporation was issued with a charge memo on 15.02.2005 on the allegation that after having received a sum of Rs.100/- from a group of three passengers, without issuing three tickets each for Rs.8.50, he had issued only one ticket and he had misappropriated the balance amount.

3.It was further alleged that there was a deficit of Rs.2/- in the cash bag. The delinquent submitted his explanation contending that two of the passengers were in a drunken mood and they had not taken tickets. By that time, when the Checking Inspector boarded the bus and demanded them to



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pay penalty for not taking tickets, a quarrel started between the Checking Inspector and those two passengers. Later, the Checking Inspector changed the stand and stated that the delinquent has not issued two tickets, despite receipt of fare. Instead of recording the complaint of fare not collected, a complaint of fare collected was registered as against the delinquent. In case, if the Conductor had received the cash and not issued the tickets, certainly the passengers would have demanded the tickets. Therefore, such an allegation is false.

4.In the domestic enquiry proceedings, it was found that the charges as against the petitioner have been proved and the punishment of dismissal was imposed upon the respondent herein on the basis of his past conduct. Challenging the same, the delinquent had filed I.D.No.97 of 2018.

5.The Labour Court had set aside the order of punishment of dismissal and directed the management to permit the delinquent to retire from service with all monetary benefits without backwages. The Labour Court has set aside the punishment on the following grounds:

a)The management has not examined the group of passengers who had alleged that despite receipt of fare, the Conductor has not issued tickets.

b)In case, if the fare has been collected, the tickets have not been issued, there would be excess amount of Rs.17.50 in



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the cash bag. However, only deficit of Rs.2/- was found.

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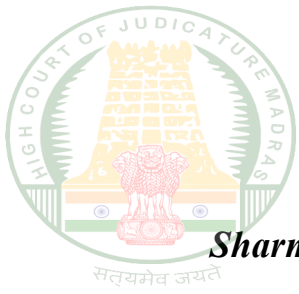
c)The Conductor has contended that he had requested the driver to drive the bus to the police station to handover the passengers found in the drunken mood. However, he has not acceded to the request of the Conductor. In such circumstances, the driver of the bus should have been examined by the management. The non-examination of the driver has vitiated the proceedings.

d)As far as the shortage of Rs.2/- in the cash bag is concerned, it is not disputed by the delinquent. For the said misconduct, the imposition of punishment of dismissal from service is disproportionate and therefore, set aside.

6.Challenging the modification of the punishment by the Labour Court, the management had filed W.P(MD).No.26173 of 2019. The Conductor has filed W.P(MD).No.21708 of 2021 challenging the denial of backwages and other attendant benefits.

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

7.The learned counsel appearing for the management has submitted that the examination of passengers is not mandatory and non-examination would not vitiate the enquiry proceedings. He has relied upon a decision of the Hon'ble Supreme Court reported in *(2010) 6 SCC 555 (Suresh Chand*



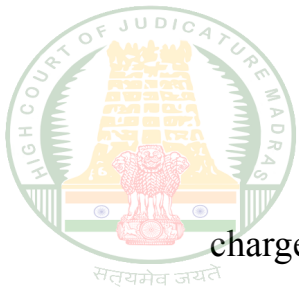
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Sharma Vs. State of Uttar Pradesh and another) in support of his contention. He had further submitted that as far as the issue relating to non-issuance of tickets are concerned, the examination of the driver is not mandatory. He further pointed out that the Labour Court has erroneously arrived at a finding that the driver has not taken the bus to the police station despite request made by the Conductor. In fact, such reason was not stated by the Conductor in his explanation to the charge memo.

8.The learned counsel for the management had further pointed out that the delinquent Conductor has signed the statement given by the passenger and therefore, it amounts to admission on the part of the delinquent. In such circumstances, the Labour Court was not right in arriving at a finding that the charges as against the Conductor with regard to the charges of misappropriation are not factually correct.

9.The learned counsel for the management had relied upon a decision of the Hon'ble Supreme Court reported in **(2005) 3 SCC 254 (Divisional Controller, KSRTC (NWKRTC) Vs. A.T.Mane)** and contended that when the charges of misappropriation are true, the Corporation could lose faith in such a person and awarding of punishment of dismissal cannot be considered to be disproportionate.

10.Per contra, the learned counsel appearing for the delinquent had submitted that the Labour Court has arrived at a categorical finding that the

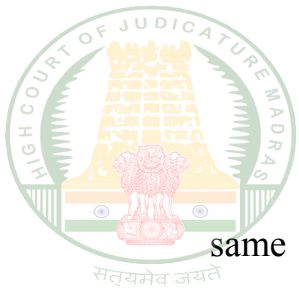


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charges as against the Conductor with regard to the allegation of misappropriation have not been proved. In such circumstances, this Court cannot arrive at a different finding by reappreciating the evidence. He had further pointed out that the charges of misappropriation have been rejected, the Labour Court ought to have awarded backwages and all other monetary benefits.

11.The learned counsel for the delinquent had further submitted that the case of deficit in the cash bag cannot be considered to be a serious misconduct. At the end of the day, the Conductor has to account for all tickets which he had issued and he has to pay the entire amount. Therefore, any deficit cannot be considered to be a misconduct at all.

12.The learned counsel for the delinquent relied upon a judgement of this Court in ***W.P(MD).No.17326 of 2016 (A.Ayyanar Vs. The General Manager, TNSTC, Villupuram) dated 23.06.2023*** wherein the punishment of dismissal was found to be grossly disproportionate in a case where Rs.7/- was found in excess in the cash bag of the Conductor. He also relied upon a decision of the Hon'ble Division Bench in ***W.A(MD).No.278 of 2013 (M.Kanniyappan Vs. The Presiding Officer, Labour Court, Tiruchirappalli and another)*** to contend that when the Conductor has put in long years of service and attained the age of superannuation, when a lesser punishment is imposed by the Labour Court in exercising of its discretionary power, the



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same shall not be interfered with. He had further pointed out that the delinquent has passed away on 20.06.2022 . In such circumstances, the award of the Labour Court in setting aside the punishment of dismissal may not be interfered with and the entire monetary benefits including the backwages may be directed to be released.

13.Heard both sides and perused the material records.

(C).Discussion:

14.The sum and substance of the charge memo is as follows:

a)On 18.01.2005, when the petitioner was operating as a Conductor for the trip between Chidambaram Bus Stand to Palayar, three passengers have boarded the bus at Chidambaram Bus Stand. One of the passengers was having the ticket, the other two passengers were ticketless. When the Checking Inspector board at the 4th stage (the stage which is the penultimate stage), two of the passengers were found ticketless. One of the passengers, has given a statement that after having paid the fare for three tickets, only the balance amount was paid by the Conductor along with one ticket and balance two tickets were not issued to them.

15.A perusal of the explanation offered by the Conductor reveals that

he admits the non-issuance of tickets to the two passengers who have boarded



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at Chidambaram Bus Stand (1st stage). In fact, when the Checking Inspector boarded the bus, the bus was in the 4th stage. Therefore, it is clear that the delinquent has not issued a ticket to those two passengers even up to the 4th stage. One of the passengers has given a written statement to the Checking Inspector to the effect that after receiving Rs.100/- for issuing three tickets at the rate of Rs.8.50 per ticket, only one ticket was issued and the balance amount was paid. However, two other tickets were not issued. A perusal of the statement of the passengers (Ex.P2) reveals that the Conductor has signed in the said statement, thereby admitting the fact that he has not issued tickets after receiving the fare.

16.The defence of the delinquent is that though he had instructed the driver to take the bus to the police station to handover the two passengers who were in drunken mood. No such averment is found in the explanation offered to the charge memo. Therefore, the Labour Court was not right in arriving at a finding that the non-examination of the driver would vitiate the enquiry proceedings.

17.In case, if the two passengers who have boarded the bus (at the first stage) have not taken tickets, that would have come to the knowledge of the delinquent before the bus had crossed the first stage. However, till the 4th stage, when the Checking Inspector boarded the bus, the Conductor has not taken any steps, to insist the passengers to get the tickets or deboard them.



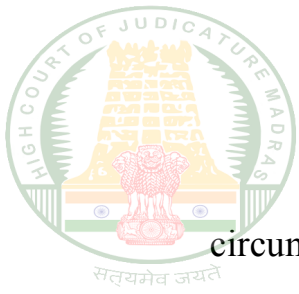
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Only in this context, the statement of the passenger and the signature of the

Conductor in the said statement has to be looked into.

18.A combined reading of these facts would clearly establish the charges as against the delinquent that he had not issued tickets despite receiving the fare. Therefore, the Labour Court was not right in arriving at a finding that the management had failed to establish the charges. Once the charges of misappropriation have been proved, as held by the Hon'ble Supreme Court in a judgement reported in **(2005) 3 SCC 254 (Divisional Controller, KSRTC (NWKRTC) Vs. A.T.Mane)**, the only punishment that could be imposed upon the delinquent is that of dismissal from service.

19.As far as the quantum of punishment is concerned, this is not for the first time the delinquent is facing similar charges. On 13.07.1988, the delinquent was found to have not issued the tickets after receiving fare. He had been imposed with a punishment of suspension for a period of 30 days as a substantial punishment. On 18.09.1990, for a similar misconduct, he had been imposed with a punishment of postponement of increment for two years with cumulative effect. On 18.03.1994, he had been imposed with a punishment of postponement of increment for a period of two years with cumulative effect for committing theft of ticket books. Therefore, it is clear that this is not the first incident, in the career of the delinquent, where he had misappropriated the fare amount paid by the passengers. In such



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circumstances, as rightly pointed out by the learned counsel for the management, as held by the Hon'ble Supreme Court reported in **(2005) 3 SCC 254 (Divisional Controller, KSRTC (NWKRTC) Vs. A.T.Mane)**, the only punishment that could be imposed upon the delinquent against whom the charges of misappropriation have been proved, is that of the dismissal.

20.The Labour Court has been carried away by the fact that the delinquent has attained the age of superannuation, for modification of punishment. Such a misplaced sympathy is against the judgement of the Hon'ble Supreme Court cited supra.

(D).Conclusion:

21.In view of the above said deliberations, this Court is inclined to pass the following orders:

a)The impugned award of the Labour Court is set aside and the punishment of dismissal imposed by the management is restored.

b)W.P(MD).No.26173 of 2019 stands allowed.

c)W.P(MD).No.21708 of 2021 stands dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

26.08.2025.

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



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1.The Presiding Officer
The Labour Court
Kumbakonam

2.The Section Officer
V.R.Section
Madurai Bench of Madras High Court
Madurai



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R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).Nos.26173 of 2019
and 21708 of 2021 and
WMP(MD).Nos.22623 of 2019,
18589 and 18596 of 2021

26.08.2025