BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON :03.07.2025

ORDER PRONOUNCED ON : 11.07.2025

CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.31170 of 2024

General Secretary
State Transport Corporation Driver
Conductor Technical Workers Trade Union
Mettupalayam
Coimbatore ....Petitioner

Vs

The Management
Tamil Nadu State Transport Corporation
(Tirunelveli Limited)
Tirunelveli Region
Tirunelveli 627 003. ….Respondent

Prayer : This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records relating to the impugned award dated 16.08.2024 in O.P.Industrial Dispute No.66 of 2023 on the file of the Labour Court, Tirunelveli and quash the same as illegal and consequently direct the respondent to revoke the punishment of two years increment cut with cumulative effect and thereafter, regularize the suspension period of one Mr.P.Arumugavel (Employee ID.No.11414) within the period that may be stipulated by this Court.

For Petitioner : Mr.M.Jerin Mathew

For Respondent : Mr.K.Ramaiah
Standing Counsel

ORDER

This writ petition has been filed by a trade union challenging the award of the Labour Court, Tirunelveli in I.D.No.66 of 2023 dated 16.08.2024 wherein the order of the management imposing punishment of postponement of increment for a period of two years with cumulative effect was confirmed.

(A)Factual Background:

2.One Arumugavel who was working as a Conductor in the respondent transport corporation was issued with a charge memo on 14.03.2016 alleging that he had not issued ticket after collecting fare from a passenger. It was further alleged that there was an excess of Rs.84/- in his cashbag at the time of checking. It was further alleged that without punching, he was holding a ticket of Rs.15/- in his cashbag.

3.The Conductor has submitted his explanation on 11.04.2016 contending that the passenger has not taken the ticket and when he was confronted by the checking official, he had wrongly shifted the blame upon the Conductor that after receiving Rs.15/-, he had handed over balance Rs.35/- and not issued a ticket. Therefore, he is a ticketless passenger. The workman has further submitted that it is usual for a Conductor to have their personal money at the time of starting the trip for issuing change to the passengers. He was holding personal money of Rs.100/- and after spending a sum of Rs.16/-, Rs.84/- was found in his cashbag. He had further submitted that the checking inspector had taken the ticket from the bundle and had obtained a signature from him and therefore, it is not correct that without punching, one of the tickets whose face value is Rs.15/- was kept in his cashbag.

4.The domestic enquiry was conducted in a detailed manner and the workman was permitted to cross examine the checking inspector. The enquiry officer arrived at a finding that the charges as against the petitioner stood proved and a second show cause notice was issued to the petitioner on 29.12.2016. The workman submitted his explanation on 11.01.2017. The management passed a final order on 20.04.2017 imposing a punishment of postponement of increment for a period of two years with cumulative effect. Challenging the same, the workman had raised an industrial dispute before the Labour Court, Tirunelveli through trade union.

5.The Labour Court arrived at a finding that the enquiry has been conducted in a fair manner after following the principles of natural justice. The Labour Court further found that the findings of the enquiry officer are not perverse and no grounds have been made out for taking a view contrary to the enquiry officer. It was further found that the workman has not explained the excess cash found in his cashbag and proceeded to confirm the order of punishment. Challenging the same, the present writ petition has been filed.

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

6.The learned counsel appearing for the petitioner/workman has submitted that one of the passengers who has boarded at Keezhapavur is a Government servant and he had not tendered the fare for purchasing a ticket. He was a ticketless passenger. When the checking inspector entered the bus, in order to save himself, he had shifted the blame upon the Conductor that after receiving the fare, he had not issued the ticket. Though a statement has been recorded from the said passenger, he was not examined during the domestic enquiry or before the Labour Court.

7.The learned counsel for the workman relied upon a judgment of the Hon'ble Supreme Court reported in ***(2018) 12 SCC 41 (A.P.S.R.T.C Vs. G.Murali)*** to contend that the non-examination of the passenger would be fatal.

8.The learned counsel for the petitioner further pointed out that a passenger who has boarded at Keezhapavur had planned to reach Ambhasamudram, should have purchased a ticket for Rs.15/-. As far as fifteen rupees ticket series is concerned, there is no discrepancy. The checking inspector had taken a ticket from the bundle and got a signature of the Conductor as if it was found in his cashbag. Serial number of the ticket that was taken from the bundle is 77952 which does not tally with serial number of the ticket that was issued to other passenger who had boarded at Keezhapavur.

9.The learned counsel for the petitioner had further submitted that it is the usual practice of Conductors to carry personal cash in his cashbag as a floating money for giving change to the passenger. At the relevant point of time, the workman was carrying personal money of Rs.100/- with him. After spending Rs.16/- for his personal use, balance sum of Rs.84/- found in the cashbag and therefore, the same cannot be considered to be misappropriation. It is the usual procedure followed by all the Conductors.

10.He had further submitted that the Labour Court has not properly appreciated the contention raised by the workman and without arriving at any specific finding with regard to the grounds raised by the workman, has proceeded to confirm the order of punishment. Hence, he prayed for allowing the writ petition.

11.Per contra, the learned counsel appearing for the respondent Transport Corporation submitted that the bus had started from Sankarankovil at 09.20 a.m and Ambhasamudram is its destination. One of the passengers who had boarded at Keezhapavur had planned to reach Ambhasamudram. The checking inspector boarded the bus at Paavurchathiram which is 18 km away from Keezhapavur. They found one of the passengers is without ticket and they enquired, she stated that she had paid a sum of Rs.50/- for purchasing a ticket of Rs.15/-. Only balance amount was paid and ticket was not issued to her. A statement was recorded from the passenger.

12.The learned counsel for the respondent relied upon a judgment of the Hon'ble Supreme Court reported in ***(1977) 2 SCC 491 (State of Haryana and another Vs. Rattan Singh), (2006) 6 SCC 187 (Divisional Controller, N.E.K.R.T.C. Vs. H.Amaresh)*** and ***(2005) 3 SCC 254 (Divisional Controller, KSRTC (NWKRTC) Vs. A.T.Mane)*** and contended that the examination of passengers during the domestic enquiry is not essential and it would not be fatal.

13.The learned counsel appearing for the respondent further submitted that in case, if any Conductor wishes to carry his personal money in the cashbag, he should report the same to the concerned official and get it recorded in the office. Otherwise, any excess money found in the cashbag would only be construed to be a misconduct. He further submitted that when the excess cash found in the cashbag is considered in the light of one ticketless passenger, the Court can infer that excess amount is only misappropriation due to non-issuance of ticket after collecting fare from the passenger.

14.The learned counsel for the respondent submitted that the passenger without ticket had travelled for at least a distance of 18 km when the checking inspector have boarded the bus. Therefore, it is clear that the workman after having collected the fare, had not issued the ticket to the passenger. If really, the passenger had voluntarily not taken the ticket, it would have found out by the Conductor. Hence, the charges as against the workman stood proved. He further submitted that the Labour Court has arrived at a specific finding that the enquiry has been conducted in a proper manner and there are no grounds to interfere in the order of punishment. Therefore, this Court may not interfere in the quantum of punishment, especially in the light of the allegation of misappropriation of public money.

15.Heard both sides and perused the material records.

(C)Discussion:

16.It is the contention of the workman that he had not collected the fare from the passenger and the passenger had voluntarily chosen not to buy a ticket. The passenger has given a statement to the effect that the Conductor has not issued a ticket after collecting the fare. The checking inspector's report has been marked as Exhibit W2 wherein a specific reference has been made about serial number of the tickets that are issued to the passengers who had boarded at Keezhapavur and those two tickets are Serial Nos. 70297 and 70298. The next passenger who had boarded at Paavurchathiram had been issued with a ticket having Serial No.70299. The checking inspector has found that one of the tickets from other batch of Serial No. 77952 is found in the cashbag without being punched.

17.According to the report of the checking inspector, the said ticket having face value of Rs.15/- was found in the cashbag without being punched and the conductor had signed behind the said ticket. However, the workman had contended that the checking inspector had taken the ticket from the bundle and got his signature and it was not found as unpunched in his cashbag. No motive has been attributed to the checking inspector for recording such a statement. In such circumstances, it is clear that there was an unpunched ticket having face value of Rs.15/- was found in the cashbag of the workman.

18.During cross examination of the checking inspector, he had specifically pointed out that if the Conductor wishes to carry personal money, it has to be reported to the concerned authority and the same has to be recorded. However, in the present case, the workman has not chosen to record the same before the concerned official before carrying such a personal cash. A sum of Rs.84/- has been found excess in the cashbag of the workman. The explanation offered by the Conductor is not satisfactory in the light of the fact that carrying of personal cash has not been disclosed to the concerned official before embarking upon the trip. Therefore, it is clear that such an explanation is an after thought.

19.The Hon'ble Supreme Court in a judgment reported in ***(1977) 2 SCC 491 (State of Haryana and another Vs. Rattan Singh)*** in Paragraph Nos.4 and 5 has held as follows:

> *"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..........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........*
>
> *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 re-evaluation of the evidence on the*

strength of co-conductor's testimony is a matter not for the court but for the administrative tribunal....”

20.The Hon'ble Supreme Court in a judgment reported in ***(2005) 3 SCC 254 (Divisional Controller, KSRTC (NWKRTC) Vs. A.T.Mane)*** in Paragraph No.7 has held as follows:

> *“7.The fact the respondent was carrying Rs.93/- in excess of the amount is a fact proved. This itself is a misconduct, and over and above that the courts below ought not to have insisted on examination of the passengers. Since the respondent did not have any explanation for having carried the said excess amount, this omission also is /was sufficient to hold the respondent guilty. “*

21.The Hon'ble Supreme Court in judgement reported in ***(2006) 6 SCC 187 (Divisional Controller, N.E.K.R.T.C. Vs. H.Amaresh)*** in Paragraph No. 18 has held as follows:

> *“18....When an employee is found guilty of pilferage or of mis-appropriating the Corporation's funds, there is nothing wrong in the Corporation losing confidence or faith in such an employee and awarding punishment of dismissal. In such cases, there is no place for generosity or misplaced sympathy on the part of the judicial forums and interfering therefore with the quantum of punishment. The judgment in Karnataka State Road Transport Corpn. Vs. B.S. Hullikatti, (2001) 2 SCC 574 was also relied on in this judgment among others. Examination of passengers of vehicle from whom the said sum was collected was also not essential. In our view, possession of the said excess sum of money on the part of*

the respondent, a fact proved, is itself a mis-conduct and hence the Labour Court and the learned Judges of the High Court misdirected themselves in insisting on the evidence of the passengers which is wholly not essential......"

22.The learned counsel appearing for the petitioner has relied upon a judgement of the Hon'ble Supreme Court reported in ***(2018) 12 SCC 41 (A.P.S.R.T.C Vs. G.Murali)*** wherein it is held that when the passengers were not produced for cross examination, specifically when the workman had denied the charges of collecting fare and non-issuance of tickets, exoneration of the workman is correct. The said judgment was delivered by Two Judges Bench of the Hon'ble Supreme Court whereas a Three Judges Bench of the Hon'ble Supreme Court in a judgment reported in ***(1977) 2 SCC 491 (State of Haryana and another Vs. Rattan Singh)*** has categorically held that the non-examination of the passengers would not be fatal. Therefore, this Court is inclined to follow the Three Judges Bench.

(D)Conclusion:

23.In view of the above said deliberations, there are no merits in the writ petition and the writ petition stands dismissed. No costs.

11.07.2025.

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

To

1.The Presiding Officer
Labour Court
Tirunelveli

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

R.VIJAYAKUMAR, J.

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Pre-delivery order made in

W.P.(MD).No.31170 of 2024

11.07.2025