

(2003) 09 MAD CK 0137

In the Madras High Court

Case No : Writ Petition No. 7044 of 2000

N. Thanu Lingam

APPELLANT

Vs

Management by Managing Director, Tamil Nadu State
Transport Corporation (Villupuram Division 3) Ltd., (Formerly
known as Puratchi Thalaivar MGR Transport Corporation) and
Presiding Officer, First Additional Labour Court

RESPONDENT

Date of Decision : 03-09-2003

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2003) 09 MAD CK 0137

Hon'ble Judges : A.K. Rajan, J

Bench : Single Bench

Advocate : A. Amalraj, for the Appellant; V.R. Kamalanathan, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Rajan, J.—The petitioner filed the above writ petition praying to issue a writ of Certiorarified Mandamus to call for the records of the second respondent relating to the order in I.D. No. 240 of 1997 dated 22.06.1999 and to quash the same, directing the first respondent to reinstate the petitioner with back wages and such other attendance benefits applicable under the rules in force.

2. The case of the petitioner in brief is as follows:

The petitioner was working as a Conductor in the respondent Transport Corporation. On 18.06.1995, while he was on duty in Route No. T.28A which was plying from Ponnery to Pazhaverkadu, the Checking Inspector checked the bus and found that 12 tickets of Rs. 2.15Ps., five tickets of the value of Rs. 2.00 and 8 tickets of 1.75Ps. were resold by him to the passengers and further it was also found that the cash pocket did not contain the correct amount which it ought to be. There was further deficiency of Rs. 29 and few paise. Therefore, five charges were framed and departmental enquiry was conducted and charges were found proved and order of dismissal was passed. Against the said order of dismissal,

the petitioner filed an appeal before the Managing Director of the respondent-Transport Corporation who in turn confirmed the order of dismissal. Thereafter the petitioner moved before the Labour Court and filed I.D. No. 240 of 1997 and the Labour Court by order dated 22.06.1999 concurred with the findings of the Managing Director and dismissed the I.D. Against the said award the petitioner has come forward with the above writ petition.

3. Heard learned counsel for the parties.

4. On a perusal of the impugned order, it is clear that the Labour Court has considered the entire evidence and also considered the contentions raised by the counsel for both the parties, and found that there is no merits in the argument advanced by the counsel for the petitioner and confirmed the order of dismissal.

5. Learned counsel appearing for the petitioner submitted that the evidence adduced by the defence has not been properly appreciated and in fact the passengers have gone back on the statements and they did not support the evidence as recorded by them. Therefore, those evidence cannot be relied upon, and on that basis the Enquiry Officer can not come to the conclusion that the charges were proved. Therefore, the charges cannot be said to have been proved. Further, learned counsel has submitted that signatures were obtained from the petitioner in a blank papers and subsequently it was filled up as if that was the explanation given by the petitioner herein for the charges that were framed.

6. It is to be noted that the incidence had took place on 18.06.1995 whereas the explanation was given after two months, that is, on 17.08.1995. Therefore, the statement of the petitioner appears to be belated and an after thought. Therefore, the Labour Court has rightly rejected all his contentions and found that the petitioner has attested and put his signatures in each of the statements recorded by the Checking Inspector from the passengers. Therefore, merely because the passengers did not support before the Enquiry Officer, it does not become unacceptable evidence. There is also no infirmity in the orders passed by the Labour Court.

7. Learned counsel for the petitioner further submitted that it is the first time he has committed such offence and the order of dismissal from service is a severe punishment and since he is very poor and lenient view should be taken.

8. Considering the nature of misconduct committed by the petitioner, namely, reselling of the of the tickets, it cannot be viewed lightly. If this Court interferes in this matter, this Court will be setting a very bad precedent and, therefore, this Court is unable to accept the contentions of the learned counsel for the petitioner. The award passed by the Labour Court is confirmed as there is no illegality .

In the result, the writ petition fails and is liable to be dismissed and hence, dismissed. In the circumstances, there will be no order as to costs.