

**(1958) 04 MAD CK 0017**  
**In the Madras High Court**

|                                                      |            |
|------------------------------------------------------|------------|
| Salem Dharmapuri Union Motor Service (Private), Ltd. | APPELLANT  |
| Vs                                                   |            |
| Labour Court and Another                             | RESPONDENT |

---

**Date of Decision :** 08-04-1958

**Acts Referred:**

**Citation :** (1958) 2 LLJ 594 : (1958) 2 MLJ 609

**Hon'ble Judges :** Balakrishna Ayyar, J

**Bench :** Single Bench

---

**Judgement**

Balakrishna Ayyar, J.—The petitioner is the management of the Salem-Dharmapuri Union Motor Service (Private), Ltd., Salem. The

respondent 2 was a conductor in the employ of the petitioner. On 31 January 1953, the management issued a circular to all their conductors

directing that, when a bus stopped at a point and fresh passengers got in tickets should be issued then and there and that it was only after tickets

had been issued to all, the conductor should instruct the driver to proceed further. The respondent 2 was aware of this circular. On 17 October

1956, the managing director of the petitioner company made a surprise check of the bus of which the respondent 2 was a conductor at a point 1

1/2 or 2 furlongs away from a place called Uthanampalli, which was the previous stop of the bus. He then found that there were five passengers in

the bus to whom tickets had not been issued. The management apparently took the view that tickets had not been issued in order that the price of

the tickets might be misappropriated. The management held an enquiry and dismissed the respondent 2 from the service Of the company. On this a

labour dispute was raised and on 14 June 1957 the Government of Madras referred the following question to the Labour Court at Coimbatore for

decision:

Whether the dismissal of the worker M.P. Arumugham from 16 November 1956 is justified and to what relief he is entitled?

The Labour Court found that tickets had not been issued to five passengers. It also found that the place, where the bus was stopped by the

managing director, was not more than 1 or 2 furlongs away from the previous stop. It further found:

there was absolutely no justification for the management to imagine that the conductor had an idea to misappropriate and cause wrongful loss to the

management.

It went on to observe

Now, with regard to the other point that he has violated the rule by moving the bus before the issue of tickets, there is no doubt that the conductor

is in the wrong.

The Labour Court also observed:

that the bus had to be moved to allow other traffic.

It also took into account the fact that the conductor started to issue tickets when the bus was stopped by the managing director. Taking all these

circumstances into account, the Labour Court passed the following order:

The management under such circumstances is not justified in dismissing him from the service. The conductor should not go without any punishment

for the violation of the rule which seems to be more observed in the breach as I already pointed out. The conductor also has admitted that he is in

the wrong. Under such circumstances, the fact that he has been out of work for all this period and without wages is sufficient punishment. He

should be reinstated but without back wages.

Before the Labour Court the respondent 2 attempted to justify his conduct by pointing out that the order, which the management had issued, was

being honoured more in the breach than in its observance. No argument is required to show that this is not a valid line of defence at all. There is no

prescriptive right to violate a rule. If arguments of this kind are countenanced, it will be possible for a person belonging to a class, which used to be

described as a criminal tribe, to say that cattle-lifting had been the occupation of his ancestors, that he had been merely following the same

avocation and that therefore he cannot be punished. I am giving this extreme illustration to show that arguments of this kind can be pressed too far.

2. The Labour Court was apparently inclined to accept the explanation that the bus had to be moved away in order not to incommode other traffic

on the road. I am unable to see any justification for this observation. If the point in Uthanampalli at which this bus had stopped was such as to

cause inconvenience or obstruction to the other traffic, it would have been sufficient to move the bus a few yards away. There would have been no

necessity to take the bus more than a furlong off. I would next observe that, if the management took the view that the respondent 2 had not issued

tickets for five passengers in order to misappropriate the price of the tickets, it would not be an unreasonable conclusion. Mr. Raman, the learned

Counsel for the petitioner, said that once it is established that an employee has been guilty of misconduct, the discretion as to what punishment

should be imposed upon him is with the management, and that the Labour Court has no power to interfere with that discretion. In support of that

contention he referred to the decision in *Indian Iron and Steel Co., Ltd. and Another Vs. Their Workmen*, . On pp. 269-270 their lordships

observed:

Undoubtedly, the management of a concern has power to direct its own internal administration and discipline; but the power is not unlimited and

when a dispute arises, industrial tribunals have been given the power to see whether the termination of service of a workman is justified and to give

appropriate relief. In cases of dismissal on misconduct, the tribunal does not however act as a court of appeal and substitute its own judgment for

that of the management. It will interfere

(i) when there is a want of good faith,

(ii) when there is victimization or unfair labour practice,

(iii) when the management has been guilty of a basic error or violation of a principle of natural justice, and

(iv) when, on the materials, the finding is completely baseless or perverse.

3. It is impossible to say in the present case that there was want of good faith on the part of the management, or that there had been victimization

or unfair labour practice. It has not been alleged that there has been a violation of any principle of natural justice ; nor can it be said that on the

materials the finding of the management is baseless or perverse. This decision of the Supreme Court occupies the field and I must follow it.

4. Mr. Ramachandran, the learned Counsel for the respondent 2, contended that merely because an employee violated a rule framed by the

management he cannot be dismissed. Before the management can do that, said Mr. Ramachandran, the rule itself must specify and give warning

that such a penalty was liable to be inflicted. In other words, Mr. Ramachandran would have it whenever a management frames a rule it must

specify in it what the penalty attached for the violation of the rule would be, and that unless the rule specifically states that its contravention would

entail dismissal a worker cannot be dismissed. No authority for a view has been shown to me, and I do not think any exists in this country.

5. Mr. Raman, the learned Counsel for the petitioner, next stated that there is absolutely no evidence to justify the statement, which the Labour

Court made in its order, that the respondent 2 had been out of work for all this period. It is unnecessary for me to go into this matter, because I am

clear in my mind that the Labour Court has no jurisdiction to substitute its own Judgment of what was the proper punishment for the judgment of

the management. The Labour Court is not a Court of appeal.

6. In the result, this petition is allowed and the order of the Labour Court quashed. No orders as to costs.