

CASE NO.:

Appeal (civil) 2340 1999

Appeal (civil) 2342 1999

PETITIONER:

THE MANAGEMENT OF SHRI GANAPATI BUS SERVICE THIRUNELVELI

Vs.

RESPONDENT:

PRESIDING OFFICER, LABOUR COURT AND ORS.

DATE OF JUDGMENT: 13/12/2000

BENCH:

S.R.Babu, S.N.Variava

JUDGMENT:

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J U D G M E N T

S. N. VARIAVA, J.

These Appeals are against a common Judgment dated 30th June, 1998, where under three appeals were dismissed. Briefly stated the facts are as follows: The Appellant has terminated the services of three of its Conductors. Those Conductors had challenged the termination before the Labour Court. The Labour Court had, by three Awards, set aside the termination of all the three workmen and directed reinstatement in all the three cases. The Appellant had then filed three Writ Petitions in the High Court of Madras. All those Writ Petitions came to be dismissed by a common Judgment dated 20th June, 1997. Against that Judgment the Appellant had filed three Appeals which were dismissed by the impugned Judgment dated 30th June, 1998. The concerned Respondents in Civil Appeal No. 2340 and 2341 of 1999 have not appeared before this Court even though served. The Respondent in Civil Appeal No. 2342 of 1999 is represented by Mrs. S. Usha Reddy. We have heard the parties, perused the Awards and the Judgment of the Single Judge as well as the Division Bench. Mr. Iyer took us through the Counters filed by the Appellant in all the three cases and pointed out that in all those Counters the Appellant had prayed that the validity of the domestic enquiry be tried as a preliminary issue and in case it was held that the enquiry was not valid and proper the Respondents may be permitted to lead evidence to substantiate their contention on the charges framed against the Appellants. He submitted that, therefore, the question whether the enquiry was valid and proper should have been tried as a preliminary issue and thereafter the Appellant should have been given an opportunity of leading evidence. In support of his submission he has relied upon an authority in the case of Shankar Chakravarti v. Britannia Biscuit Co. Ltd. reported in (1979) 3 SCC 371, in which it was held that the

Management must seek an opportunity to lead evidence by making a specific request at an appropriate stage. He submitted that such an opportunity having not been given the Awards were wrong and the same should be set aside. We see no substance in this submission. In all the three cases the Labour Court had found that the enquiry was proper and valid. It is for other reasons, set out hereinafter, that the Labour Court had directed reinstatement. In that event, in all the three cases the Appellants being given opportunity to lead evidence after such a finding before the Labour Court did not arise. In our view, whether or not the enquiry was valid and proper though not tried as a preliminary issue has not prejudiced the Appellants in any manner. If the answer to that question had been in the negative, perhaps an occasion to consider the arisen question raised by the learned counsel would have arisen. It was next submitted that in all the three cases it has been found that the Conductors had not collected fares from passengers. It was submitted that the Appellant had lost confidence in these Conductors and that, therefore, there could be no order directing reinstatement. It was submitted that for this reason also there should have been no order directing reinstatement. To understand this submission brief facts need to be noted. In the first case, on surprise inspections on 2.8.1988 and 24.10.1988 it was found that only one passenger had not been issued a ticket and on the second date 2 passengers did not have tickets. In the second case, on surprise inspection on 2.1.1989 it was found that all the passengers had been issued tickets. However a small medical box was being carried on the roof of the bus. Luggage charges had not been recovered for that. On 4.2.1989 it was found that a small boy of 12 years had been issued a half ticket, instead of a full ticket. In the third case, all that had happened was that on 9.4.1989 on inspection it was found that a plaitain leaf bundle was being carried on the roof of the bus without luggage charges having been levied. In the first case, the Labour Court came to the conclusion that there had been sufficient punishment inasmuch as during the period of suspension pay had not been paid. The Labour Court found that the punishment of dismissal was disproportionate to the charge inasmuch as the charge was only that there would have been a loss of Rs. 4.80. The Labour Court also found that before awarding punishment of dismissal no show-cause-notice as to the quantum of punishment had been issued to the Conductor. In the second case, on evidence the Labour Court came to the conclusion that the medical box was in fact a very small box for which there could have been no luggage charges. It also came to the conclusion on evidence that the boy was only of 12 years of age and, therefore, he had rightly been issued a half ticket. In the third case, the Labour Court found on evidence that a plaitain leaf bundle could only be charged proved it had more than 400 leaves. The claim of the Conductor was that the plaitain leaf bundle did not even have 100 leaves. This was supported by the evidence of the passenger. In the enquiry it had not been established as to how many leaves the bundle had. The learned Single Judge of the High Court had agreed with the reasoning given by the Labour Court. We also see no reason to take a different view. In our view, neither the Awards nor the Judgment of the Single Judge nor the Judgement of the Division Bench requires any interference.

Accordingly, these Appeals stand dismissed. There
will be no Order as to costs.@@

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JUDIS