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W.A.No.1509 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

W.A.No.1509 of 2024

S.Subramaniam
S/o.Somasundaram

... Appellant

VS.

The Management
Tamil Nadu State Transport Corporation Ltd.,
(Coimbatore Division – I)
Mettupalayam Road
Coimbatore – 641 043.

... Respondent

Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 08.11.2023 in W.P.No.3038 of 2019.

For Appellant	:	Mr.P.V.S.Giridhar Senior Counsel for Mr.Meera Gnanasekar
For Respondent	:	Mr.P.Dinesh Kumar for Mr.T.Chandrasekaran



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J U D G M E N T

[Made by **K. SURENDER, J.,**]

Under assail is the writ order dated 08.11.2023 passed in W.P.No.3038 of 2019.

2. The respondent / workman in the writ proceedings instituted the present intra-Court appeal mainly on the ground that the admission of guilt made by him before the Enquiry Officer and the Labour Court is to be viewed in a way that such admission would not be a ground to impose the penalty of dismissal from service. The admission made is to be tested in the context of facts as well as the admission made by the workman.

3. Mr.P.V.S.Giridhar, learned Senior Counsel appearing on behalf of appellant would contend that mere admission would be insufficient and the admission of guilt must be qualified. That apart, the High Court in exercise of powers of judicial review under Article 226 of the Constitution of India, is not empowered to grant compensation, but the Labour Court has the power under the Industrial Disputes Act, 1947 [hereinafter “ID Act”]



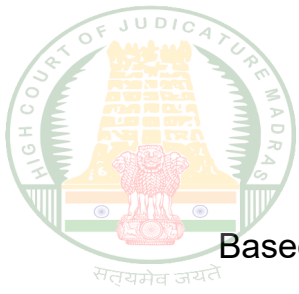
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for the sake of brevity]. However, the High Court may remand the matter

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back to the Labour Court for fresh consideration, if at all the decision of the Labour Court is found to be not in consonance with the established principles or under Section 11-A of the ID Act.

4. The factual matrix, uncontroverted between the parties, are that the appellant was initially appointed as a Conductor and subsequently, promoted to the post of Clerk. When he was working as a Cashier in Branch I at Pollachi, the Audit Officers found that there was a shortage of cash to the tune of Rs.1,20,000/- in Rs.10 denominations as per the records maintained by the appellant / employee. It was detected on 06.12.2002 and 07.12.2002. The appellant was on leave, and the locker used by the appellant to keep the cash was also found sealed. On 09.12.2002, the authorities confirmed that there was a shortage of Rs.1,20,000/- in Rs.10 denominations. Thus, departmental disciplinary proceedings were initiated, a charge memo was issued by affording an opportunity to submit an explanation, a domestic enquiry was conducted, witnesses were examined and cross-examined both by the Management as well as by the appellant / employee and the Enquiry Officer submitted his report holding that all the charges against the appellant are proved.



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Based on the proved charges, the Disciplinary Authority imposed the punishment of dismissal from service.

5. The appellant raised an industrial dispute in I.D.No.200 of 2006 before the Labour Court, Coimbatore under Section 2A(2) of the ID Act. The Labour Court, after considering the oral and documentary evidence, held that the alleged amount of misappropriation to the tune of Rs.1,20,000/- was paid by the employee and taking note of the said fact, a compensation of Rs.2,50,000/- was directed to be paid in lieu of reinstatement and back wages. Aggrieved by the award passed by the Labour Court, the Transport Corporation preferred the writ petition. The writ Court allowed the writ petition by setting aside the award of the Labour Court mainly on the ground that both before the Enquiry Officer in the Domestic Enquiry as well as before the Labour Court, the charges framed against the appellant were admitted by him. Before the Enquiry Officer, the appellant made a statement that a mistake occurred, but not defended the missing amount of Rs.1,20,000/- which was in his custody. Considering the fact that the employee admitted the charges both before the Enquiry Officer as well as before the Labour Court, the writ Court found that the compensation granted by the Labour Court is not in



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consonance with the established principles, since the grave misconduct of misappropriation of Transport Corporation funds is established beyond any pale of doubt.

6. This Court is of the considered view that Section 106 of the Indian Evidence Act, 1872 [hereinafter “Act 1872” for the sake of brevity], denotes “Burden of Proving fact especially within knowledge” – when any fact is especially within the knowledge of any person, the burden of proving that fact is upon him. Mere denial by the appellant that he was not aware has not discharged the burden that was imposed under Section 106 of the Act 1872.

7. The procedures to be followed in the departmental disciplinary proceedings and in the criminal trial are distinct and different. High standard of proof is required to convict a person under criminal law, however, no such strict proof is required to punish a public servant under departmental disciplinary proceedings. Preponderance of probabilities are sufficient for imposing punishment under the Discipline and Appeal Rules applicable to an employee.



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WEB COPY 8. In the present case, the employee of the Government owned Corporation, admitted the charges relating to misappropriation of funds before the Enquiry Officer and before the Labour Court. Thus, exercise of discretionary powers to grant compensation would fall beyond the realm of powers of discretion conferred under the ID Act. Any such compensation granted under the ID Act must be in commensuration with the facts established before the Labour Court. Even before the Labour Court, the guilt was admitted by the employee and the Labour Court recorded the said fact. Having recorded the fact regarding the admission of charges by the employee, it would be unnecessary to grant compensation, which was considered by the writ Court for reversing the decision of the Labour Court.

9. The discretionary powers conferred on the authorities or to the Courts under the Act is to mitigate injustice, if any, caused to an aggrieved person. Discretionary powers conferred under any Statutes or Rules must be exercised judiciously. Routine exercise of discretionary powers would result in causing prejudice to the parties or result in miscarriage of justice. Therefore, exercise of discretion must be within the ambit of principles



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established for the exercise of discretion both by the authorities or by the
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10. In the present case, the writ Court has considered the grave misconduct of misappropriation of funds of the Transport Corporation and further considered the fact that the employee admitted the charges in his own explanation before the Domestic Enquiry Officer and before the Labour Court. Thus, while confirming the order of dismissal, grant of compensation would result in miscarriage of justice and this Court does not find any infirmity in respect of the writ order, which is under challenge in the present intra-Court appeal.

11. The learned Senior Counsel would submit that the admission made by the appellant would not fall within the ambit of Rule 14(d) of Standing Orders of the Cheran Transport Corporation Limited, Coimbatore and its branches [hereinafter referred to as “Service Rules” for the sake of brevity].

12. Rule 14(d) of Service Rules speaks about misconduct by the employees which reads as follows:

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“14. Acts and Omission constituting misconduct:

d. Theft, fraud or dishonesty in connection with the employer's business or property or a theft of another employees property within the establishment.”

13. Therefore, the explanation submitted by the appellant that the amount was missing cannot be construed as an admission. Such an argument is unacceptable in view of the fact that the Service Rules themselves state theft, fraud or dishonesty. If the context of Section 106 of Act 1872 is read as stated above, even dishonesty, if any, committed by the employee is also considered as misconduct under the Service Rules. More so, the statements made by the employee before the Enquiry Officer through his explanation would be sufficient to form an opinion that he has not defended the charges framed and the charges against the appellant were that he has misappropriated the funds of the Transport Corporation.

14. The judgement relied on by the learned Senior Counsel in the case of ***Central Bureau of Investigation vs. V.C.Shukla and others*** reported in **1998 (3) SCC 410**, is relatable to a criminal case, wherein the Apex Court held that there is no dispute regarding the fact about a



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distinction exists between admission and confession in a criminal case.

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Certain reference is given under Sections 24 to 27 of Act 1872, where confession is admissible. However, in the present case, the appellant had confessed his guilt. If it is found during the Domestic Enquiry that there was a shortage of Rs.1,20,000/-, in such circumstances, when there is no denial by the appellant, finding by the learned single Judge needs no interference on facts. The statement made was not denied subsequently at any point of time before the Enquiry Officer or before the Labour Court.

15. In view of the above, this Court does not find any merit in the present intra-Court appeal and the same is liable to be dismissed. Accordingly, the Writ Appeal stands dismissed. There shall be no order as to costs.

(S.M.S.,J.) (K.S.,J.)
08.04.2026

Index : Yes
Neutral Citation : Yes
Speaking Order

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and
K. SURENDER, J.,**

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