

W.A.(MD)No.457 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
15.09.2025	19.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.457 of 2020

A.Shanthi

... Appellant / Petitioner

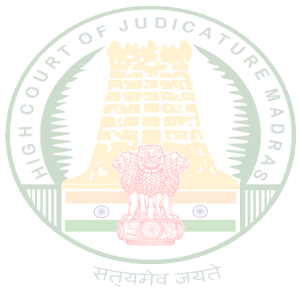
vs.

1.State of Tamil Nadu,
Rep. by its Deputy Secretary,
Labour and Employment Department,
Fort St. George, Chennai – 9.

2.The Management,
Tamil Nadu State Transport Corporation,
Rep. by its General Manager,
Karaikudi.

3.The Presiding Officer,
Labour Court at Madurai,
Madurai.

... Respondents / Respondents



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PRAYER : Writ Appeal filed under Clause 15 of Letters Patent, against the order dated 30.06.2016, made in W.P.(MD)No.35792 of 2002.

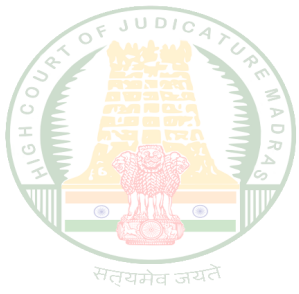
For Appellant	: Mr.V.Ajay Khose for Mr.A.Rahul
For R1	: Mr.V.Om Prakash Government Advocate
For R2	: Mr.P.Balasubramanian

JUDGMENT

C.V.KARTHIKEYAN, J.

The widow of the writ petitioner, aggrieved by the dismissal of W.P.(MD) No.35792 of 2002 by order dated 30.06.2016 passed by a learned Single Judge [*K.K.Sasidharan, J.*], is the appellant herein.

2. W.P.(MD)No.35792 of 2002 had been filed by C.Aalagu, seeking issuance of a Writ of Certiorari, to call for the records relating to I.D.No.30 of 1995 on the file of the Labour Court at Madurai, and to quash the Award passed therein on 28.01.2002. The writ petitioner was employed as a Conductor in the Tamil Nadu State Transport Corporation at Karaikudi. It was alleged that he had



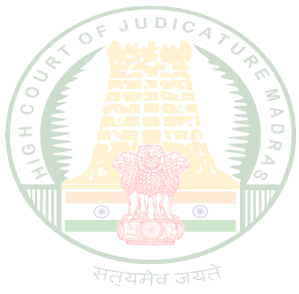
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trespassed into the cabin of the Manager, threatened him, and also attempted to assault him. A complaint was lodged, and following due procedure, disciplinary proceedings were initiated. An Enquiry Officer was appointed, and the petitioner participated in the enquiry proceedings. A report was submitted finding that the charges were proved. Though a further notice was issued to the writ petitioner, he did not chose to respond to the same. Consequently, an order of dismissal from service was passed against him.

3. The writ petitioner subsequently raised an industrial dispute by filing I.D.No.30 of 1995 before the Labour Court at Madurai. However, during the trial, the writ petitioner neither examined himself nor any other witnesses and also did not chose to mark any documents in support of his case.

4. On the side of the Management, no oral evidence was adduced. However, documentary evidence Exhibits M.1 to M.19 were marked. These included the report of the Branch Manager marked as Ex.M.1, the suspension order issued to the writ petitioner as Ex.M.2, the charge memo as Ex.M.3, the reply submitted by the writ petitioner as Ex.M.4, the copy of the enquiry



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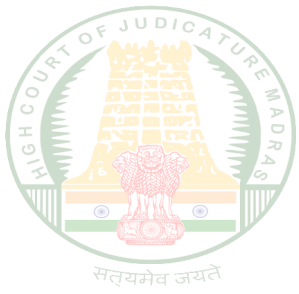
proceedings as Ex.M.7, the findings of the Enquiry Officer as Ex.M.9, the second show cause notice issued to the writ petitioner as Ex.M.10, and the dismissal order dated 08.05.1993 marked as Ex.M.11.

5. The Management also produced additional documents including a copy of the complaint submitted by the writ petitioner himself marked as Ex.M.13, the order passed in W.P.No.17940 of 1991 as Ex.M.16, and a copy of the police complaint lodged by the Management, marked as Ex.M.19.

6. On appreciation of the pleadings and the evidence produced, by Award dated 28.01.2002, the Labour Court at Madurai held that the charges against the writ petitioner had been established and consequently, awarded the punishment of dismissal from service.

7. Challenging the said Award, W.P.(MD)No.35792 of 2002 was filed.

8. The Writ Petition came up for consideration before the learned Single Judge of this Court [*K.K.Sasidharan, J.*], who, by order dated 30.06.2016,



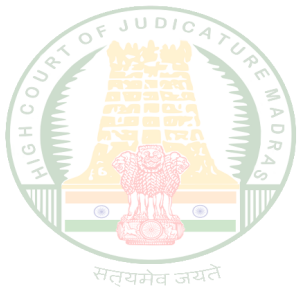
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examined the substantial question raised namely, the alleged violation of principles of natural justice on the ground that the Management had failed to provide a copy of the enquiry report. After reviewing the law on the point, the learned Single Judge held that the writ petitioner had not demonstrated any prejudice was caused by the non-furnishing of the enquiry report. The learned Single Judge further observed that the Labour Court had duly considered the nature of the charges and the evidence adduced and ultimately had reached to a correct conclusion in awarding the punishment of dismissal from service. Consequently, the Writ Petition was dismissed by order dated 30.06.2016.

9. Before the writ petitioner could file an appeal, he passed away on 13.02.2018. It is for this reason that his widow, A.Shanthi, has filed the present Writ Appeal.

10. In the grounds of the Writ Appeal, it had been contended that the writ petitioner was the Secretary of a Trade Union affiliated with the Labour Progressive Union and was victimized on account of his trade union activities. It was further stated that the allegations contained in the charge memo were not



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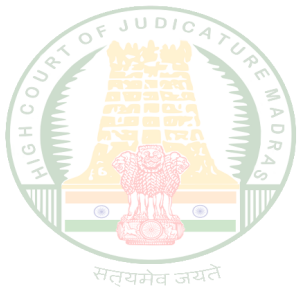
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proved by legal and acceptable evidence. It was submitted that during the disciplinary proceedings, the Complainant/Branch Manager, along with one other witness for the Management, were examined. It was also pointed out that the writ petitioner had joined service on 28.06.1983 and was dismissed from service on 08.05.1993.

11. The Writ Appellant has urged that the order of the learned Writ Court must be interfered with and that the writ petitioner be reinstated into service, at least notionally, with extension of all monetary benefits to the appellant.

12. Heard arguments advanced by Mr.V.Ajay Khose, learned counsel for the appellant, Mr.V.Om Prakash, learned Government Advocate for the first respondent and Mr.P.Balasubramanian, learned counsel for the second respondent.

13. Mr.V.Ajay Khose, learned counsel for the appellant, in his arguments, pointed out that the writ petitioner, who had passed away even before the filing of the Writ Appeal, was an active trade union leader serving as Secretary of a Trade



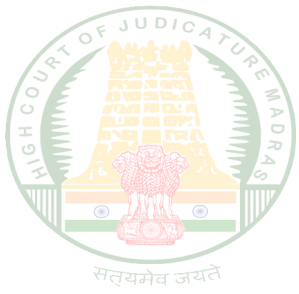
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Union affiliated to Labour Progressive Union. The learned counsel contended that the petitioner was victimized due to the stands he had taken against the Management. Further, the learned counsel emphasized that the charge that he had entered the Branch Manager's room, abused him, and attempted to assault him, did not warrant the harsh punishment of dismissal from service. It was also contended that the punishment imposed was disproportionate to the nature of the allegations against the writ petitioner.

14. In this connection, the learned counsel placed reliance on the following judgments:-

(i) **Rama Kant Misra vs. State of Uttar Pradesh and Others** reported in **(1982) 3 SCC 346**, wherein it was held that the punishment imposed must be proportionate to the misconduct. In that case, the appellant was charged with misconduct for disorderly behaviour likely to cause breach of peace and with threatening an employee within the premises. The Enquiry Officer found that the use of such language constituted misconduct and recommended dismissal from service. The Labour Court upheld the termination as legal and proper, and a Writ Petition filed before the High Court also failed. However, the Hon'ble Supreme



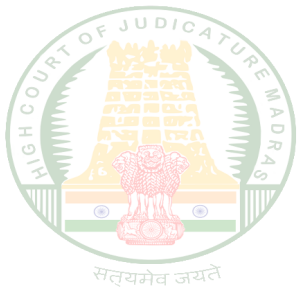
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Court observed that the misconduct related only to the use of improper language.

It held that the Labour Court ought to have examined Section 11A of the Industrial Disputes Act, 1947, and exercised its discretion to consider whether the punishment was disproportionate to the misconduct. The Hon'ble Supreme Court further noted that the employee had completed 14 years of service with no prior allegations of misconduct and that the charge related to a single isolated incident, unconnected with any subsequent blameworthy conduct. Accordingly, the Hon'ble Supreme Court set aside the punishment imposed.

(ii) **Ved Prakash Gupta vs. M/s.Delton Cable India (P) Ltd.** reported in **(1984) 2 SCC 569**. In this case, the appellant, whose primary duty was that of a Security Officer at the factory gate, was charged with abusing a co-worker in filthy language. The Hon'ble Supreme Court examined the award passed by the Labour Court and considered the contention that the charge was not serious and that there were no prior adverse remarks against the appellant. The Hon'ble Supreme Court observed that the Management had failed to take these factors into account when imposing the extreme punishment of dismissal from service. It was held that the punishment was disproportionate to the charge framed. Under these

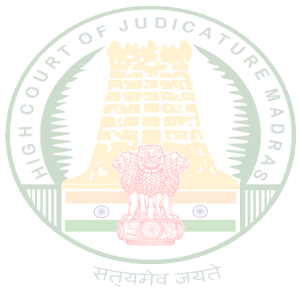


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circumstances, the termination was declared invalid, and the appellant was directed to be reinstated with full back wages and other benefits, including continuity of service.

(iii) A judgment of Division Bench of this Court dated **25.05.2023**, **S.Raja vs. M/s.Hindustan Unilever Ltd., Tea Factory Manager, Puducherry and another** [W.A.No.1835 of 2021]. The Division Bench examined an appeal filed by a workman challenging his termination from service. The charge against him was that, while serving as a Security Officer of Hindustan Unilever Ltd., was asked to participate in a meeting in his capacity as Secretary of the Tea Workers Welfare Union. During the meeting, an Officer threatened the workers to increase production, causing a commotion. The appellant had pacified the workers and requested them to resume duty. He also urged the Officer to discuss the issue with the Union. Despite this, the appellant was served with an enquiry notice and charge memo alleging that he barged into the shop floor during the meeting, disrupted the proceedings, used abusive language against Executives and the Manager, intimidated an Officer by holding him by the collar, and created an unpleasant atmosphere. The appellant contended that he was victimized for his



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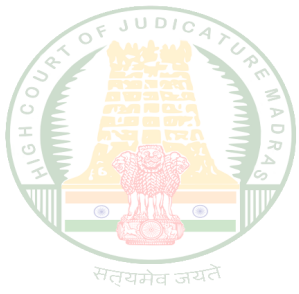
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trade union activities. Following the enquiry, the charges were held to be proved, and the appellant was dismissed from service. However, the Division Bench, while noting that it could not re-examine disputed questions of fact, modified the Labour Court's award by directing reinstatement with continuity of service and all other benefits, but without entitlement to back wages. Additionally, the appellant was directed to be transferred to any other far-off place.

15. The learned counsel for the appellant, relying on the ratio decidendi of the aforementioned judgments, argued that the charge against the writ petitioner in the present case was one of misconduct. He submitted that the punishment imposed, namely, termination from service, was disproportionate to the nature of the charges. Therefore, it was urged that the punishment must be interfered with and that the Writ Appeal should be allowed.

16. Mr.V.Om Prakash, learned Government Advocate for the first respondent, however, submitted that no complaint regarding violation of the principles of natural justice had been raised by the appellant either during the enquiry proceedings or before the Labour Court.

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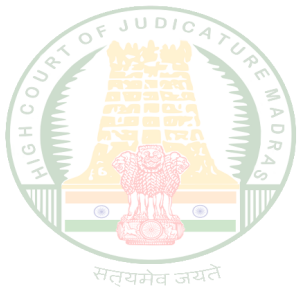
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17. He further pointed out that before the learned Single Judge, a ground was taken that the enquiry report had not been furnished. However, the learned Single Judge had rejected this contention, holding that the writ petitioner had not demonstrated that any prejudice was caused by the non-furnishing of the enquiry report. The learned Government Advocate pointed out that this specific ground has not been raised in the present Writ Appeal. Accordingly, he urged that the Writ Appeal should be dismissed.

18. Mr.P.Balasubramanian, learned counsel for the second respondent justified the punishment imposed, and argued that the writ petitioner had completed less than ten years of service and that the charge related to an incident for which a charge memo was issued. He further pointed out that there were two prior occasions when the writ petitioner had similarly abused the Branch Manager, and emphasised that this conduct was not a stray incident.

19. The learned counsel specifically denied the allegation that the writ petitioner had been targeted for his trade union activities. He submitted that the

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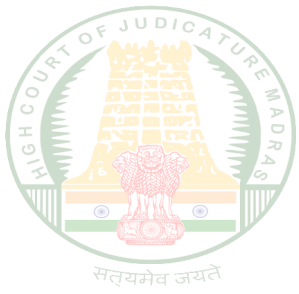
Labour Court had thoroughly considered all relevant aspects, including the issuance of a second show cause notice to which the writ petitioner had failed to respond. Accordingly, he argued that the punishment imposed was both justifiable and proportionate.

20. In support of his submissions, learned counsel placed reliance on the following judgments:

(1) **Madhya Pradesh, Electricity Board vs. Jagdish Chandra Sharma** reported in **AIR 2005 SC 1924**, wherein the Hon'ble Supreme Court held that interference by the Labour Court and the High Court with the punishment of termination for charges of assaulting a Superior Officer and subsequent unauthorized absence, both of which were found established, was unjustified. The orders of the High Court and the Labour Court directing reinstatement without back wages were set aside.

(ii) **Haryana Financial Corporation and another vs. Kailash Chandra Ahuja** reported in **(2008) 9 SCC 31**. In this case, when there was a complaint that an enquiry report had not been furnished, it was held that the employee must

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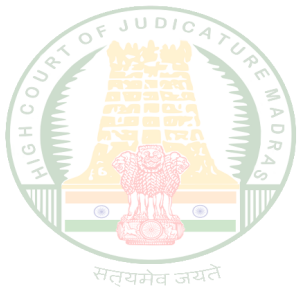
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show that prejudice that had been caused to him. It is to be noted that this aspect had not been raised during the appeal hearing but had been raised before the learned Single Judge, who relied on this judgment and found as a fact that the writ petitioner had failed to demonstrate that any prejudice was caused due to the non-furnishing of the enquiry report, and had accordingly dismissed the Writ Petition.

21. The learned counsel further stated that the punishment imposed was proportionate to the charge levelled against the writ petitioner. He also pointed out the writ petitioner's previous misconduct, which included similar acts of threatening and abusing the Manager. Accordingly, he urged that the Writ Appeal should be dismissed.

22. We have carefully considered the arguments advanced and perused the material records.

23. The Writ Appeal has been filed questioning the order in W.P.(MD)No. 35792 of 2002 dated 30.06.2016, by which a learned Single Judge of this Court



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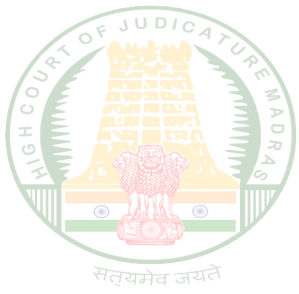
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[*K.K.Sasidharan, J.*] had dismissed the Writ Petition challenging an Award dated 28.01.2002 in I.D.No.30 of 1995 passed by the Labour Court, Madurai. By that Award, the Labour Court confirmed the punishment imposed of dismissal from service of the writ petitioner. The writ petitioner died subsequent to the passing of the order in the Writ Petition; therefore, the Writ Appeal has been filed by his widow.

24. The writ petitioner, C.Aalagu, was employed as a Conductor in the Tamil Nadu State Transport Corporation, Karaikudi Branch. At the relevant time, he was working in the Rameshwaram Branch of the second respondent, Tamil Nadu State Transport Corporation, Karaikudi. He was also the Secretary of a Trade Union affiliated with the Labour Progressive Union.

25. It was alleged that on 11.04.1992, he entered the room of the Manager and spoke to him in filthy language. On the following day, 12.04.1992, while the Manager was discussing with the Traffic Clerk, the petitioner again scolded the Manager in filthy language, threatened to harm him by stating he would cut him, and attempted to assault him with a punching machine.

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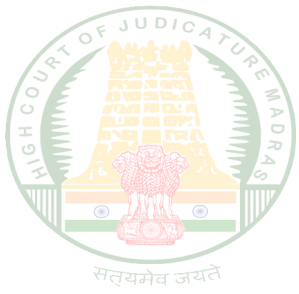
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26. In this connection, a charge memo was issued to the writ petitioner, alleging serious misconduct. After following due procedure, an Enquiry Officer was appointed and disciplinary proceedings were initiated. The Enquiry Officer submitted findings on 15.10.1992, holding that the charges were proved.

27. Subsequently, the second respondent issued a second show cause notice dated 17.02.1993, calling upon the petitioner to submit an explanation. This fact is not disputed by the writ petitioner. However, he failed to reply to the second show cause notice and did not provide any reasons to mitigate the punishment, which naturally followed since the charges had been established.

28. The second show cause notice explicitly stated that if no reply was received, it would be presumed that the petitioner had admitted the charges held to have been proved. Thereafter, the second respondent passed orders on 08.05.1993 dismissing him from service.



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29. In the second show cause notice dated 17.02.1993, it had been very specifically mentioned that there were four earlier occasions of misconduct committed by the writ petitioner, wherein punishment had been imposed against him. They were:

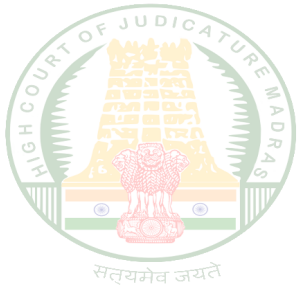
(i) that he had remitted an amount lesser than what was collected as Conductor during official duty; for this, he received one warning and three severe warnings;

(ii) that on 01.06.1987, while working as Conductor in the bus bearing Registration No. TML 2006, he remitted Rs.30/- less than the collected amount, for which he was punished with a cut in increment for one year without cumulative effect;

(iii) that on 28.07.1987, he abused the Branch Manager of the Rameshwaram Branch in filthy language in his office and was punished with a cut in increment for one year without cumulative effect; and

(iv) that on 13.04.1990, he again misbehaved with the Branch Manager at Rameshwaram Branch and threatened him, for which he was similarly punished with a cut in increment for one year without cumulative effect.

30. Although the second show cause notice specifically referred to the petitioner's prior disciplinary records and punishments imposed on four separate



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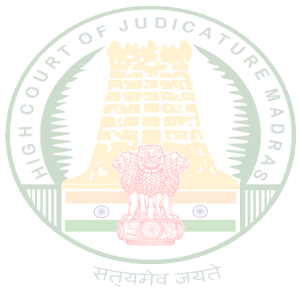
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occasions, the writ petitioner consciously chose not to respond to the notice.

Consequently, the second respondent passed an order on 08.05.1993, noting that the charges against the petitioner had been proved. The order further observed that the petitioner had previously faced disciplinary proceedings on established charges and had been punished accordingly. Therefore, considering the repeated nature of the offences, the punishment of dismissal from service was imposed.

31. The petitioner challenged this order by filing I.D.No.30 of 1995 before the Labour Court at Madurai. After trial, the Labour Court passed an Award on 28.01.2002, confirming the dismissal from service.

32. During the trial, the petitioner did not appear as a witness to explain his conduct, nor did he produce any documents in his defense. On the other hand, the second respondent filed Exhibits M.1 to M.19, which included the report of the Branch Manager (Ex.M.1), the charge memo (Ex.M.3), enquiry proceedings (Ex.M.7), the findings of the Enquiry Officer (Ex.M.9), the second show cause notice (Ex.M.10), and the order of dismissal (Ex.M.11).



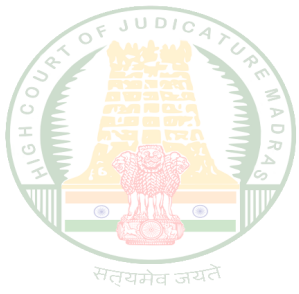
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33. The Labour Court noted that the punishment of dismissal from service was not disproportionate to the gravity of the misconduct; rather, it was held to be just and proper.

34. Thereafter, W.P.(MD)No.35792 of 2002 was filed challenging the Award of the Labour Court. The learned Single Judge examined the principle ground urged that the copy of the enquiry report had not been furnished and rejected this contention as insufficient to overturn the Award. The learned Single Judge further held that the writ petitioner had not demonstrated any prejudice caused by the non-furnishing of the enquiry report. Consequently, the Writ Petition was dismissed by order dated 30.06.2016.

35. Mr.V.Ajay Khose, learned counsel for the appellant urged this Court to reconsider the punishment imposed, contending that it was disproportionate to the charges framed against the petitioner. In support of this submission, the learned counsel relied on the judgments reported in **(1982) 3 SCC 346 [Rama Kant Misra (referred supra)]** and **(1984) 2 SCC 569 [Ved Prakash Gupta (referred supra)]**.



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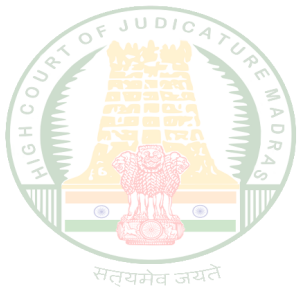
36. The learned counsel argued that in both the aforementioned cases, where the workman was issued a charge memo alleging misconduct, the Hon'ble Supreme Court had held that the order of dismissal from service was disproportionate to the charge alleged.

37. However, we are constrained to point out a significant distinguishing factor. In both the cases referred *supra*, the Hon'ble Supreme Court noted that the charge of misconduct was a solitary, stray allegation. The prior conduct of the workmen in those cases was unblemished. It was on that basis that the Hon'ble Supreme Court concluded that the punishment of dismissal from service was disproportionate.

38. In the judgment reported in **(1982) 3 SCC 346 [Rama Kant Misra (*supra*)]**, the Hon'ble Supreme Court had observed as follows:-

"8. The appellant was employed since 1957. The alleged misconduct consisting of use of indiscreet or abusive or threatening language occurred on November 18, 1971, meaning thereby that he had put in 14 years of service. Appellant was Secretary of the Workmen's

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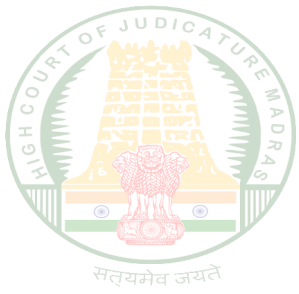
Union. The respondent management has not shown that there was any blameworthy conduct of the appellant during the period of 14 years' service he rendered prior to the date of misconduct"

[Emphasis supplied]

39. In (1984) 2 SCC 569 [Ved Prakash Gupta (*supra*)], the Hon'ble Supreme Court had observed as follows:-

"13. There is nothing on record to show that any previous adverse remark against the appellant had been taken into consideration by the management for awarding the extreme penalty of dismissal from service to the appellant even if he had in fact abused in filthy language....."

40. It is thus evident that the Hon'ble Supreme Court interfered with the punishment imposed in the aforementioned cases despite the charges being proved only on the basis of the prior unblemished conduct of the workmen. In the instant case, however, the writ petitioner had been charged with similar offences of misconduct against the Branch Manager on two earlier separate occasions, for which he was punished with a cut in increment for one year without cumulative effect on both occasions. Additionally, there were two other earlier instances



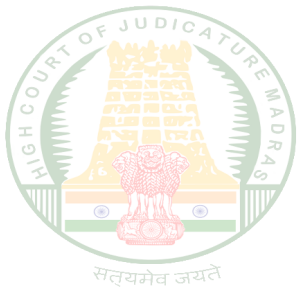
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wherein the petitioner was charged with remitting shortage of the amount collected while performing his duties as a Conductor in the Transport Corporation bus. On the first occasion, he was severely warned, and on the second occasion, he was punished with a cut in increment for one year without cumulative effect.

41. The compelling circumstance of previous misconduct of similar nature on two occasions necessarily had to be taken into account by the second respondent when determining the appropriate punishment for the repeated offences involving abusive and threatening conduct against the Branch Manager. The Labour Court duly considered the issue of proportionality of the punishment and held that the punishment was not disproportionate under the circumstances.

42. We are of the firm view that the punishment imposed was certainly not disproportionate, particularly, when taking into consideration the past disciplinary record of the writ petitioner. Specifically, there were prior occasions of similar misconduct of threatening and abusing the Branch Manager, each resulting in punishment being imposed of cut in increment for one year without cumulative effect. The petitioner may be described as having a proclivity for threatening and



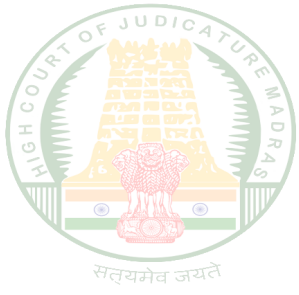
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abusing the Branch Manager, which reflects direct insubordination and extreme disrespect towards an officer holding a managerial position.

43. It is also pertinent to note that the writ petitioner did not respond to the second show cause notice and raise any mitigating circumstances regarding the quantum of punishment. In the absence of any reply, it is beyond our remit to seek reasons to reduce the punishment imposed. The writ petitioner's failure to raise objections effectively indicates his admission of the charges proved against him. Furthermore, he had not disputed the fact of past punishments imposed upon him.

44. The contention that the writ petitioner was victimized due to his membership in a Trade Union must be rejected. Being a member or office bearer of a Trade Union does not entitle him to abuse and threaten the Branch Manager on not one or two, but on three separate occasions. We hold that the punishment imposed was not disproportionate, considering the petitioner's past conduct and the nature of the allegations, which were found to be proved during the enquiry.



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45. For all these reasons, we are the opinion that the challenge to the order of the learned Single Judge must fail and the Writ Appeal has to be dismissed. Accordingly, the Writ Appeal stands dismissed. No costs.

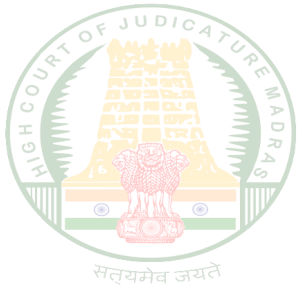
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[C.V.K., J.] & [R.V., J.]
19.09.2025

To

- 1.The Deputy Secretary,
State of Tamil Nadu,
Labour and Employment Department,
Fort St. George, Chennai – 9.
- 2.The General Manager,
The Management,
Tamil Nadu State Transport Corporation,
Karaikudi.
- 3.The Presiding Officer,
Labour Court at Madurai,
Madurai.

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C.V.KARTHIKEYAN, J.
and
R.VIJAYAKUMAR, J.

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PRE-DELIVERY JUDGMENT MADE IN
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