

W.P.(MD).No.19847 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.19847 of 2017

and

W.M.P(MD) No.16109 of 2017

The General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Tirunelveli Region,
Vannarpettai,
Tirunelveli – 627 003.

... Petitioner

Vs.

1. The Presiding Officer,
The Labour Court,
Tirunelveli.
2. The General Secretary,
Nellai District Transport Labour Union,
Vannarpettai,
Tirunelveli – 627 008.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned award passed by the first respondent Labour Court in I.D.No. 71 of 2016, dated 20.01.2017 and quash the same.

For Petitioner : Mr.K.Sathiya Singh



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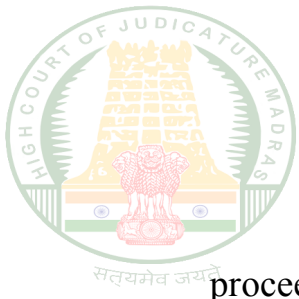
For R1 : Mr.G.V.Vairam Santhosh
Additional Government Pleader

For R2 : Mr.A.Rahul

ORDER

The Management of the Transport Corporation has filed the present Writ Petition challenging the Award of the Labour Court, Tirunelveli, in I.D.No.71 of 2016, wherein, the Labour Court was pleased to set aside the order of imposition of punishment of postponement of increment for a period of one year with cumulative effect.

2. The second respondent herein, who is working as a Conductor in the petitioner/Transport Corporation was issued with a charge Memo on 20.08.2011 for being involved in a fatal accident. The second respondent has submitted his explanation and after conducting domestic enquiry an order was passed on 10.04.2013, imposing the punishment of stoppage of increment for a period of one year with cumulative effect. Challenging the said order, the second respondent has approached the Labour Court in I.D.No.71 of 2016. The labour Court, after considering the documents filed on either side, has



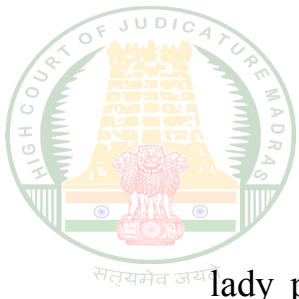
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proceeded to set aside the punishment, directing the Management to confer the increments upon the second respondent. Challenging the said order, the present Writ Petition has been filed by the Management.

3. A perusal of the records reveal that while the second respondent was working as a Conductor on 18.08.2011, it is alleged that he had blown the whistle without considering the fact that a lady passenger was alighting from the bus. In view of the said fact that the lady passenger had fallen down, sustained serious injuries and later passed away. A claim petition was filed by the relatives of the deceased passenger and the Transport Corporation had to pay a sum of Rs.1,40,800/- (Rupees One Lakh Forty Thousand and Eight Hundred only). This has prompted the Management to issue a Charge Memo and place the second respondent under suspension.

4. The Labour Court has specifically found that the domestic enquiry has been properly conducted and principles of natural justice have been followed strictly. However, the Labour Court has found that none of the passengers were available on the spot have been examined on the side of the Management to prove that the Conductor had blown the whistle, while the



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lady passenger was alighting. Based upon the above said fact, the Labour Court has proceeded to set aside the punishment.

5. The learned Standing Counsel appearing for the petitioner/Transport Corporation had contended that the Assistant Manager of the Transport Corporation had been examined in the domestic enquiry and he had specifically deposed that the Conductor blew the whistle even while the lady passenger was alighting from the bus. Therefore, only due to the negligence on the part of the second respondent, the fatal accident has taken place, which has resulted in pecuniary loss to the petitioner/Transport Corporation. If the Conductor had been careful enough, the accident could have been avoided.

6. Per contra, the learned counsel appearing for the second respondent/Conductor had contended that the lady passenger had lost her balance and she had fallen down and it is not correct to allege that the conductor had blown the whistle while the lady passenger was alighting. He further contended that charge Memo was also issued to the driver and he had not stated that he started the bus after hearing the blowing of the whistle. Therefore, there is no fault on the part of the Conductor.



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7. Heard both sides and perused the materials available on record.

8. In the domestic enquiry, the Assistant Manager of the petitioner/ Transport Corporation alone has been examined to establish the fact that the Conductor had blown the whistle without considering the fact that the lady passenger was alighting from the bus. The said Assistant Manager is not an eyewitness. None of the passengers in the bus have been examined. Therefore, it is clear that the Management had not proved the fact that the Conductor had blown the whistle while the lady passenger was alighting. Since the finding of the enquiry Officer was perverse, the Labour Court has rightly set aside the order of punishment. This Court does not find any extraordinary reason to interfere with the order of the Labour Court and therefore, there are no merits in the Writ Petition. Accordingly, this Writ Petition stands dismissed.



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9. The petitioner/ Transport Corporation is directed to treat the period of suspension as a duty period and confer all the eligible monetary benefits to the second respondent. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

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Tirunelveli.
2. The General Secretary,
Nellai District Transport Labour Union,
Vannarpettai,
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R.VIJAYAKUMAR,J.

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