

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.811 of 2016

Ramalingam Appellant/2nd Respondent

Vs.

1. Tamil Nadu State Transport
Corporation (Villupuram Division-II)
Ltd., rep. By its General Manager
Rangapuram, Vellore-9

2. The Presiding Officer
Labour Court, Vellore

... Respondents

Writ Appeal filed against the order dated 16.08.2012 in
W.P.No.21331 of 2002.

Writ Petition filed under Article 226 of the Constitution of
India, praying for the issuance of a Writ of Certiorari, call
for the records on the file of the 1st Respondent in I.D.No.444
of 1994 and quash the impugned award dated 03.06.2001 made in
I.D.No.444 of 1994.

For Appellant : Mr.S.R.Krishnaswamy

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH,J.)

Heard the learned counsel for the appellant.

2. The appellant herein/workman, who was appointed as a
Driver in the services of the Tamil Nadu State Transport
Corporation (R-1), stated to have committed four accidents from
1986 to 1993 by driving rashly and negligently the Corporation
bus. Further, on one occasion, the appellant unfortunately hit a
lady who was standing on the extreme left end of the road and as
a result, she died. For the above said misconduct, a show cause

notice was issued to the appellant on 20.04.1993, and after getting his explanation, domestic enquiry was conducted by an external enquiry officer by giving all reasonable opportunities and thereafter, a termination order was issued to him. In the meanwhile, a Criminal Case filed against the appellant before the Judicial Magistrate, Arni, in C.C.No.110/1993 ended in acquittal of all the charges against the appellant.

3. The appellant, as against the termination order issued to him, approached the Labour Court in I.D.No.444 of 1994, wherein, the Labour Court passed an Award dated 03.06.2001. By the award of the Labour Court, the workman was reinstated in service with full backwages.

4. The learned Single Judge, while considering the issue in detail, allowed the Writ Petition filed by the Tamil Nadu State Transport Corporation, 1st respondent, and directed the Writ Petitioner/Transport Corporation, not to recover Rs.50,000/- from the workman, however, directed to take steps to withdraw the balance amount, Rs.80,000/- which is lying on the file of the Labour Court.

5. The very order directing the Transport Corporation to withdraw the balance amount of backwages of Rs.80,000/- is challenged in the present Writ Appeal. In the grounds taken, it is contended that the appellant/workman was acquitted by the competent Criminal Court and the appellant has explained the facts in his explanation to the second show cause notice.

6. It is the settled law that No Work No Pay. Hence, on the principle of "no work no pay", the appellant will not be entitled for backwages. What is now in dispute is that the casualty occurred, involving a death of a person. It appears that the Labour Court and the learned Single Judge, after considering the decisions of this court in identical matters and also the judgment of the criminal court in C.C.No.110/1993, has taken a lenient view in the matter. The learned Single Judge, after taking note of all the facts before him, has directed the Transport Corporation, to withdraw the remaining balance amount of Rs.80,000/- leaving Rs.50,000/- which was already withdrawn by the appellant/workman.

7. At the time of admission, we have heard the learned counsel for the appellant for some time and perused the order of the learned Single Judge and we find that there is no scope for interference in this Writ Appeal. We are of the considered view that there is no justification to pay the remaining amount of Rs.80,000/- to the appellant/workman, who had been terminated by the Transport Corporation and not worked from the date of

termination order dated 27.12.1993 till he joined after Labour Court Award. Accordingly, we disapprove the further claim made by the appellant herein. Though the factum of negligence could not be proved, if the appellant, who worked as a driver of the Corporation Bus, was careful, he could have avoided the accident. Considering the lenient approach showed by the learned Single Judge, while partly confirming the Award passed by the Labour court in the aspect of reinstatement and also considering the fact that subsequently, the workman was reinstated in service and he has also retired from service, we find no merit in this Writ Appeal. Accordingly, the Writ Appeal is dismissed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

nvsri

To

1. The General Manager
Tamil Nadu State Transport Corporation
(Villupuram Division-II) Ltd.,
Rangapuram, Vellore-9.
2. The Presiding Officer
Labour Court, Vellore.

+lcc to Mr.S.R.Krishnaswamy, Advocate, S.R.No.38630

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CTK(CO)
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