



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.08.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
and
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A(MD)No.884 of 2017
in
W.P. (MD)No.24853 of 2016

K.Perumalsamy .. Appellant/Petitioner
Vs.

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Limited.,
Byepass Road, Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited.,
Dindigul Region,
Dindigul.

.. Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letter Patent Act, against the order dated 23.12.2016 made in W.P.(MD).No.24853 of 2016, on the file of this Court.

Prayer in WP(MD). 24853/ 2016 :

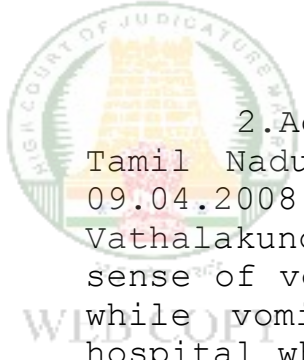
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order passed by the 2nd respondent in Ref.No.SathuA1 : 1484 dated 10.12.2008 and to quash the same as illegal and consequently directing the Respondents to restore the increment for one year and cancel the temporary suspension of 15 days from 17.04.2008 to 01.05.2008.

For Appellant : Mr.N.Madhava Govindan
For Respondents : Mr.A.Jeyaraman
Standing Counsel for TNSTC

JUDGMENT

[Judgment of the Court was delivered by **G.R. SWAMINATHAN, J.**]

The unsuccessful Writ Petitioner is on appeal questioning the order dated 23.12.2016 made in W.P.(MD).No.24853 of 2016.



2. According to the appellant, he was working as a driver in Tamil Nadu State Transport Corporation, Madurai Limited and on 09.04.2008 when he was driving the bus from Kodaikanal to Vathalakundu, a passenger travelling inside the bus developed a sense of vomiting, went to the front side foot-board and fell down while vomiting. He suffered injuries and was taken to the hospital where he died.

3. The appellant was prosecuted in C.C.No.31 of 2008 on the file of the Judicial Magistrate, Kodaikanal, but he was acquitted by Judgement dated 25.02.2016. However, the appellant was found guilty in the departmental proceedings and levied with the punishment of stoppage of increment for one year. Aggrieved by the same, he filed the present writ petition. The learned single Judge dismissed the writ petition on the ground that the appellant should work out his remedy by raising a industrial dispute. It is against this order that the present writ appeal has been filed.

4. Heard, the learned counsel appearing for the appellant and also the learned Standing Counsel for the respondents.

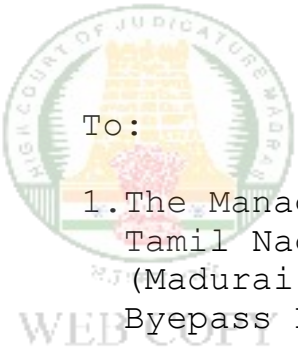
5. It is true that mere acquittal in the criminal case is not a bar for proceeding with the departmental action. But, then the findings in the departmental proceedings should be based on some evidence. The authority cannot ignore the findings of acquittal rendered in the criminal case. The appellant herein was driving the bus and he cannot be expected to have any control over the movement of the passengers inside the bus. The learned Judicial Magistrate, Kodaikanal has given a finding that the criminal case had been launched against the driver without even a prima facie case. Thus, an honourable acquittal had been given in favour of the appellant. There is absolutely no justification for holding the appellant guilty of any misconduct. Holding the appellant guilty can only be said to be perverse. It is true, that the appellant can raise an industrial dispute, but the availability of alternative remedy need not always be a bar for exercising writ jurisdiction under Article 226 of the Constitution of India.

6. For all these reasons, we are inclined to set aside the order dated 23.12.2016 made in W.P.(MD).No.24853 of 2016 and quash the order impugned in the writ petition. This writ appeal is accordingly allowed. No costs.

Sd/-
Assistant Registrar(co)

/True Copy/

Sub Assistant Registrar



To:

1.The Managing Director,
Tamil Nadu State Transport Corporation,
(Madurai) Limited.,
Byepass Road, Madurai.

2.The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited.,
Dindigul Region,
Dindigul.

+1cc to M/S.N.MADHAVA GOVINDAN, Advocate SR.No.70287

sss/ns

MAS/MR-KKR/SAR1:07.09.2017:2P-4C

**JUDGMENT MADE IN
W.A(MD) No.884 of 2017
03.08.2017**