

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2018

CORAM

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.23006 of 2004

Tamilnadu State Transport Corporation
(Salem Division II) Limited, Salem Main
Road, Dharmapuri. Petitioner

Vs

1.The Presiding Officer
Labour Court, Salem.

2.P.S.Perumal Respondents

For Petitioner : M/s.Rajeni Ramadoss

For Respondents : R1 - Court
Mr.S.Ayyathurai - for R2

Prayer : Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of certiorari to call for
the records of the first respondent in I.D.No.114 of 2001 dated
22.7.2003 and quash the same.

O R D E R

This writ petition has been filed by the workman,
challenging the award passed by the labour court, directing the
management to take the workman as a fresh entrant, is under
challenge by the management.

2. The brief facts leading to the filing of the writ
petition is as follows. The second respondent / workman was
appointed as driver on daily wage basis on 18.08.1999. On
04.10.1999, while the workman was driving the bus bearing
Regn.No.TN29/N0385 plying between Denkanikottai and Kutchuvadi,
at 7.30 AM, there was an accident, in which six passengers were
injured and the bus was extensively damaged. In respect of the
above accident, a charge memo dated 30.10.1999 was issued on the
second respondent / workman, to which the workman has submitted

his reply dated 22.11.1999. Not satisfied with the reply, enquiry was conducted on 27.11.1999. In the domestic enquiry, the workman was found guilty and he was dismissed from service. That was challenged before the labour court, Salem in I.D.No.114 of 2001. The labour court has considered the fact that at the time of accident, the wiper was not in working condition; it was raining and because of the road conditions, despite the driver having been careful, there is a possibility of mechanical defect, resulting in the accident. It is the grievance of the workman also that the natural circumstances prevailing at the time of the accident has not been taken note of by the enquiry officer.

3. Learned counsel for the management would submit that the findings of the labour court are not acceptable and the driver who was engaged only on a daily wage basis, is not entitled to any consideration and he is liable to be terminated even without an enquiry and therefore, even if the enquiry report is defective, he is liable to be terminated. That apart, though being a fresh entrant at the time of the accident, the workman has caused the accident, resulting in loss to the extent of Rs.65000/- and therefore, his employment would be detrimental to the interests of the management.

4. Learned counsel for the workman submits that the accident that took place was beyond his control as the wiper was not working; road conditions were slippery and despite due care and caution being exercised, there is a likelihood of the accident having been taken place. However, learned counsel for the workman submits that the workman is ready to compensate the loss of Rs.65000/- from his future salary.

5. Considering the facts and circumstances, the award passed by the labour court, directing the management to employ the second respondent workman as a fresh entrant, is hereby confirmed. The writ petition challenging the award of the labour court is hereby dismissed. The workman shall be reinstated as a fresh entrant within a period of two weeks from the date of receipt of a copy of this order. The management shall be entitled to recover Rs.65,000/- from the future salary of the workman, in equal instalments starting from the sixth month to the twelvth month, of his appointment by the management.

Sd/-

Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

KST

To

The Presiding Officer
Labour Court, Salem.

+1cc to Mr.S.Ayyathurai, Advocate SR.No.75130

+1cc to Mr.S.Rajeniramadass, Advocate SR.No.76100

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SJ(CO)

GMV (29/11/2018)



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