



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 28.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) Nos.4698 of 2015

&

MP (MD) No.1 of 2015

&

WP (MD) No.16648 of 2017

and

WMP (MD) No.13254 of 2017

The Management,
State Express Transport Corporation,
Pallavan Salai,
Chennai.

... Petitioner in both cases

Vs.

1. The Presiding Officer,
Labour Court, Tirunelveli,
(Thoothukudi Camp).

2. R.Jawahar Chinnasamy

... Respondents in both cases

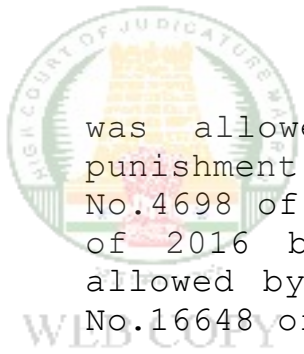
Prayer in WP(MD)No.4698 of 2015 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records of the order dated 20.11.2014 passed by the first respondent in I.D.No.30 of 2013 on the file of the Labour Court, Tirunelveli camp at Tuticorin and quash the same.

Prayer in WP(MD)No.16648 of 2017 : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records pertaining to the order of the first respondent passed in C.P.No.142 of 2016 dated 26.04.2017 and to quash the same.

For Petitioner	: Mr.K.Sudalaiyandi
in both cases	
For Respondents	
in both cases	: Mr.A.Rahul for R2
	R1 - Labour Court

COMMON ORDER

The second respondent herein was employed as a Driver in the petitioner corporation. When he was driving the corporation bus on 22.10.2007, the bus got involved in a fatal accident. In this case, the second respondent was prosecuted. Disciplinary action was also taken. The management imposed penalty of reduction of wages by two stages with cumulative effect for five years. This order dated 21.07.2008 passed by the management was questioned in I.D.No.30 of 2013 before the Labour Court, Tirunelveli. The same



was allowed by order dated 20.11.2014 which set aside the punishment. Questioning the same, the management filed WP(MD) No.4698 of 2015. In the meanwhile, the driver had filed CP.No.142 of 2016 before the Labour Court, Tirunelveli. The same was allowed by order dated 28.04.2017. That is assailed in WP(MD) No.16648 of 2017.

2.Heard the learned counsel on either side.

3.The bus in which the second respondent was driving got involved in a fatal accident. The only question is whether the second respondent was at fault. It is relevant to note here that he was honourably acquitted by Judgment dated 09.10.2009 in CC.No.402 of 2007 on the file of the Judicial Magistrate, Tenkasi. That the delinquent secured an honourable acquittal is a relevant fact that should have been taken into account by the Labour Court. The Labour Court rightly took the same into account. The Judgment of the Criminal Court was marked as Ex.P12.

4.In Paragraph No.10 of the award passed in I.D.No.30 of 2013, the Labour Court by process of convincing reasoning came to the conclusion that the second respondent herein cannot be said to be guilty of any wrong doing. The bus did not hit from behind. The gentleman has lost his balance and had fallen on the road and was ran over by the back wheel. By no stretch of imagination, the second respondent can be said to be guilty of any kind of negligence. This Court does not find any merit in these writ petitions.

5.In the result, both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court, Tirunelveli,
(Thoothukudi Camp).

+1cc to Mr.K.Sudalaiyandi, Advocate Sr.No.52096
+1cc to Mr.A.Rahul, Advocate Sr.No.52220

SKM

VB/SB/SAR2/06.07.2018/2P/4C