



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) .No.22831 of 2016

and

W.M.P (MD) No.16358 of 2016

The Management,
Tamil Nadu State Transport Corporation
(Madurai Division) Limited,
Bye Pass Road,
Madurai-10.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
District Court Buildings,
Madurai.

2.The General Secretary,
Tamil Nadu State Transport Corporation
National Employees Union (INTUC),
Registration No.MDU/257,
34/A Pattukottai Kalyana Sundaram Street,
Opp.PRC Head Office,
Bye Pass Road,
Madurai.

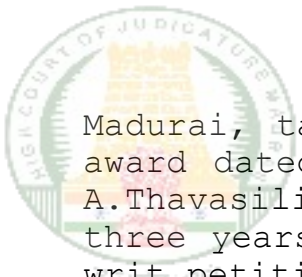
... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the first respondent in the proceedings in I.D.No.32/2015 dated 12.01.2016, quash the same.

For Petitioner	:Mr.A.Jeyaram
For R2	: Mr.G.M.Xavier
R1	: Labour Court

ORDER

The Transport Corporation is the writ petitioner before this Court. The second respondent herein is a Registered Trade Union. One A.Thavasilingam, a member of the second respondent union was employed as a driver in the petitioner corporation. The bus which he was driving got involved in an accident. In this regard, the management issued a charge memo and domestic enquiry was also conducted. After conclusion of the proceedings, the management imposed the punishment of stoppage of increment for a period of three years with cumulative effect. The Trade Union took up the case of the said A.Thavasilingam. The matter was referred to the Labour Court in I.D.No.32 of 2015, Madurai. The Labour Court,



Madurai, taking into account the totality of the circumstances, by award dated 12.01.2016 modified the punishment imposed on the said A.Thavasilingam into one of stoppage of increment for a period of three years without cumulative effect. The same is assailed in this writ petition.

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2.Heard the learned counsel on either side.

3.The learned counsel appearing for the management pointed out that since the case is relating to fatal accident, no interference was required in the matter of punishment. The Tribunal has not considered the issue in its proper perspective and the Labour Court has modified the punishment into a lesser one.

4.The Labour Court is entitled to invoke Section 11 of the Industrial Disputes Act, 1947 in the case of dismissal and discharge, if the circumstances of the case so required. In the present case, the order of punishment imposed on the said A.Thavasilingam was neither dismissal nor discharge. Therefore, the power to modify the punishment into a lesser one obviously was not available to the Labour Court. Since such a power has been invoked, the award impugned in this writ petition is liable to be quashed. Therefore, the writ petition has to be allowed.

5.The learned counsel appearing for the second respondent would submit that the said A.Thavasilingam was acquitted in the criminal case and there was no finding of guilt of rashness or negligence while driving.

6.In the above circumstances, the matter is remitted to the file of the Labour Court, Madurai for fresh consideration. The writ petition is allowed accordingly. No costs. Consequently, W.M.P(MD) No.16358 of 2016 is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To
The Presiding Officer,
Labour Court,
Madurai.

RMI
DS/SKN-RSK/SAR-4 :05.04.2018:2P/2C

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and

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