

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.09.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.34929 of 2004

&

W.M.P.No.42142 of 2004

Tamil Nadu State Transport Corporation,
(Salem) Limited,
rep by its Managing Director, Salem.

...Petitioner

..Vs..

1.The Presiding Officer,
Labour Court, Salem.

2.R.Annadurai

...Respondents

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 I.D.No.354/2002, dated 18.08.2003 and quash the same.

For Petitioner : Mrs.Rajeni Ramadoss
For Respondent : No appearance for R.2

ORDER

The award dated 18.08.2003 passed in I.D.No.354/2002 is under challenge in the present writ petition.

2.The writ petitioner is the Tamil Nadu State Transport Corporation (Salem) Ltd. The second respondent/workman was employed as a Driver in the writ petition/Corporation and on 25.12.1992, when he was driving a bus from Bangalore to Salem, caused an accident with a car coming in the opposite direction. On account of rash and negligent driving of the second respondent, three persons who traveled in the car died on the spot and other passengers sustained grievous injuries. There was heavy damage to the Corporation bus.

3.A charge memo was issued to the second respondent on 29.12.1992. He submitted an explanation on 13.01.1993, which was not satisfactory and the domestic enquiry was conducted by the

employer in compliance with the principles of natural justice. The Enquiry officer submitted his findings on 17.07.1993 holding that the charges framed against the second respondent/workman were proved. After taking into account the past record of service, wherein he was punished twice for the accidents caused by him and the reply to the second show cause notice, he was dismissed from service on 05.12.1993.

4.The learned counsel appearing on behalf of the petitioner stated that an industrial dispute itself was raised after a lapse of 10 years from the date of passing the order of dismissal. The second respondent was dismissed from service on 05.12.1993 and the industrial dispute was raised by the second respondent during the year 2003.

5.In respect of the correctness of the domestic enquiry, the workman himself has not raised any serious objections and the Labour Court found that the enquiry was conducted by complying with the principles of natural justice. The charges framed against the second respondent were proved. However, the Labour Court had gone into the scene of allegations and made a finding that the second respondent/ workman had not committed any serious negligence which resulted in a fatal accident. Such a finding may not be required in view of the fact that the very accident was established and the contributory negligence cannot be a ground for grant of exoneration for the proved charges.

6.This apart the past records of the second respondent were also considered by the writ petitioner/Corporation for imposing a major penalty of dismissal from service. Apart from these grounds, the industrial dispute itself was raised after a lapse of 10 years and therefore, the same is liable to be rejected on the ground of laches.

7.The learned counsel appearing on behalf of the writ petitioner narrated the previous history of the second respondent, which is extracted hereunder;

Sl.No	Date	Nature	Punishment
1.	09.05.1987	Glass damage	Warned
2.	04.09.1987	Glass damage	Warned
3.	14.07.1987	Excess diesel consumption	Fined Rs.5/-
4.	03.06.1990	Mani leaf damaged	Warned
5.	24.10.1991	Damage to bus	Recovery Rs.100/-
6.	17.07.1992	Tyre damage	Recovery Rs.185/-

Sl.No	Date	Nature	Punishment
7.	24.09.1992	Accident	IPP 3 months woce
8.	21.10.1992	Tyre damage	Recover Rs.9.20/-
9.	25.12.1992	Fatal accident	Dismissed

8.Considering the facts and circumstances of the case, this Court is of the opinion that the fairness of the enquiry has been upheld by the Labour Court and the Labour Court has committed an error in entertaining an industrial dispute after a lapse of 10 years from the date of passing of the dismissal order and consequently the award dated 18.08.2003 passed in I.D.No.354/2002 is hereby quashed and the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

mrm
To

The Presiding Officer,
Labour Court, Salem.

+1 CC to Mr.S. Rajeni Ramadoss, Advocate sr 84136.

W.P.No.34929 of 2004

KK (CO)
SP (06/11/2019)

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