



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P.(MD)No.12208 of 2010

WEB COPY

M.Dharmalingam

... Petitioner

vs.

1.The Tamil Nadu Transport Corporation
represented by the Management,
Kumbakonam - Kottam - 2,
1-Collector Office Road,
Tiruchirappalli.

2.The Labour Court, Trichy. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned award, dated 30.09.2009 on the file of the second respondent in I.D.No.141 of 2006 and quash the same.

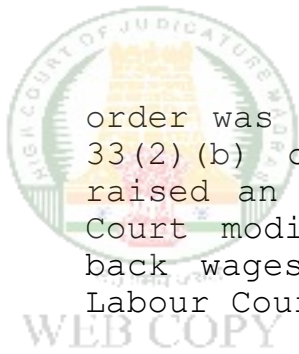
For Petitioner
For R1

:Mr.T.Lajapathi Roy
: Mr.M.Prakash

O R D E R

This Writ Petition is filed for issuing a Writ of Certiorari, to quash the impugned Award in I.D.No.141 of 2006, dated 30.09.2009 on the file of the first respondent.

2.The petitioner was a Driver under the respondent Corporation. While he was on duty at Musiri Branch, and on his trip from Musiri to Thanjore, met with an accident on 07.03.2002. The bus, which was driven by the petitioner, hit a person, who was riding a TVS moped vehicle and he died on spot. Thereafter, the petitioner was placed under suspension from 08.03.2002. A charge memo was issued and after holding domestic enquiry, the first respondent imposed a punishment of dismissal from service. The



order was approved by the Joint Commissioner, Labour, under Section 33(2)(b) of Industrial Disputes Act. Thereafter, the petitioner raised an industrial dispute in I.D.No.141 of 2006 and the Labour Court modified the punishment by directing reinstatement without back wages and continuity of service. As against the Award of Labour Court, Trichy, the above Writ Petition is filed.

3.The learned Counsel for the petitioner submitted that the accident was not caused by the petitioner and the Labour Court came to the wrong conclusion and confirmed the findings of the Disciplinary Authority about his misconduct. The learned Counsel further submitted that the Labour Court ought to have considered the petitioner's long period of service in the respondent Corporation, apart from his past conduct, while refusing to grant continuity of service.

4.The Labour Court, on appreciation of facts, came to the conclusion that the charge against the petitioner is proved, as the petitioner was responsible for the accident. The learned Counsel for petitioner produced a photograph to show that after hitting two wheeler, the bus is on the extreme left side of the road. The learned Counsel would suggest that the photograph would show that the accident could not be avoided by the petitioner, despite the petitioner went to the extreme left side of the road. However, it is admitted that the petitioner hit the vehicle, which was going in front of the bus, on the same direction, where, the bus was driven. Hence, the photograph would clearly indicate that the petitioner has driven the bus in a careless, rash and negligent manner and hit the two wheeler from behind. Hence, the findings of the first respondent and the Tribunal are well founded and the charge against the petitioner is proved beyond doubt.

5.It is in the said circumstances, the Award of Labour Court modified the punishment only by showing some lenience, taking into consideration the past conduct and family circumstances of the petitioner. This Court has no reason to reduce the punishment. No vitiating circumstance has been brought to the notice of this Court. Hence, this Court is not inclined to interfere with the award of Labour Court.

6.As a result, this Writ Petition is dismissed and the Award passed by the Labour Court, Trichy, in I.D.No.141 of 2006, dated 30.09.2009, is confirmed. No costs.

7.The learned Counsel for the petitioner submitted that though the petitioner was reinstated pursuant to the Award, he was not given salary applicable to the post of Driver, in which he was serving before the Award. However, the learned Counsel for the first respondent is unable to respond for want of instruction. Hence, it is made clear that the petitioner is entitled to get same services as he was getting before the Award. The petitioner was drawing at the time of accident, even, if he



is engaged in some other job. If the petitioner has any grievance, it is open to the petitioner to workout his remedy in the manner known to law independently.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

cmr

To
The Labour Court, Trichy

+1 CC to M/s.M.PRAKASH, Advocate (SR-96612[F] dated 07/11/2019)

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-96918[F] dated
08/11/2019)

W.P. (MD) No.12208 of 2010
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