



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

CORAM

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

W.P. (MD)No.3937 of 2010

and

M.P. (MD)No.1 of 2010

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The Management,
Tamilnadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye-Pass Road, Collectorate P.O.,
Dindigul - 624 004.

... Petitioner

vs.

1.The Presiding Officer,
Labour Court, Madurai.

2.The Secretary,
Tamil Nadu Arasu Pokuvarathu Tholilar
Sangam (CITU),
V.P.Sithan Memorial,
51, Kilaku Arrokiyamatha Theru,
Dindigul.

... 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 on the file of the first respondent pertaining to its proceedings order passed in I.D.No.97 of 2005, dated 31.10.2008 and quash the same.

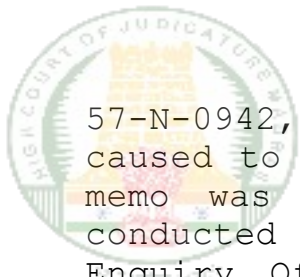
For Petitioner : Mr.S.C.Herold Singh

For R2 : Mr.S.Arunachalam

O R D E R

This Writ Petition is filed by the State Transport Corporation as against the order of Labour Court in I.D.No.97 of 2005 modifying the punishment.

2.The second respondent Union espousing the cause of a driver of the petitioner Management, raised an industrial dispute in I.D.No.97 of 2005. The workman, in favour of whom, the industrial dispute was raised by the second respondent, met with an accident when he was driving a bus bearing registration No TN-



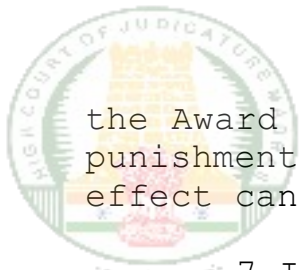
57-N-0942, resulting in injury of four passengers and heavy damage caused to the bus. The workman was later suspended and a charge memo was also issued on 28.11.2000. A domestic enquiry was conducted and after giving full opportunity to the driver, the Enquiry Officer submitted his report, dated 29.12.2001 holding that the charges against the workman are proved.

3. Thereafter, as per the certified Standing Orders of the petitioner Corporation, a second show cause notice was issued. After hearing the workman in response to the second show cause notice, the proposed punishment originally to remove the workman from service was reduced into one of stoppage of increment for a period of six months with cumulative effect. It was against the order of punishment, the industrial dispute was raised by the second respondent Union in I.D.No.97 of 2006.

4. The Labour Court found that the delinquency as against the workman was proved. However, the Labour Court reduced the punishment of stoppage of increment with cumulative effect into one of stoppage of increment for a period of six months without cumulative effect. The Labour Court accepted the contention of Union that the punishment of stoppage of increment with cumulative effect cannot be imposed as per Standing Order. Challenging the order of Labour Court, the Transport Corporation has preferred the above writ petition.

5. The learned Counsel for the petitioner submitted that there can be punishment of stoppage of increment with cumulative effect as per the Standing Orders and that therefore, the Labour Court cannot interfere with the punishment and modify the punishment. The learned Counsel for the petitioner also relied upon an order of this Court in W.P.(MD)No.8946 of 2009, dated 31.07.2017. Wherein, taking into consideration the Standing Orders, this Court framed an issue whether the stoppage of increment with cumulative can be imposed by the Management. After referring to Clause 17 of the Standing Order, the learned Judge held that the power to impose the punishment of stoppage of increment would also include the stoppage of increment with cumulative effect. The writ petition filed by the Management was allowed sustaining the punishment of stoppage of increment with cumulative effect.

6. In the present case, the Labour Court has accepted the findings of the Management regarding delinquency of workman. The workman has caused a major accident and thereby, caused loss to the Transport Management. Four passengers were also injured. The accident was due to the rash and negligence of the Driver concerned. In such circumstances, the punishment of stoppage of increment with cumulative effect is proper and valid and hence,



the Award of Labour Court reducing the punishment or modifying the punishment as one for stoppage of increment without cumulative effect cannot be sustained.

7. In result, the writ petition is allowed and the Award of Labour Court in I.D.No.97 of 2005, dated 31.10.2008 is set aside. The punishment imposed by the Management on the workman, namely, stoppage of increment for a period of six month with cumulative effect is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

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To

The Presiding Officer,
The Labour Court, Madurai.

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-89502[F] dated 26/09/2019)

+1 CC to M/s.S.ARUNACHALAM, Advocate (SR-89721[F] dated 26/09/2019)

W.P.(MD)No.3937 of 2010
25.09.2019

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