



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.18362 of 2011

and

M.P.No.1 of 2011 & M.P.No.1 of 2014

The Management,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Vellore Region,
Rangapuram, Vellore-632 009
rep. by its General Manager.

...Petitioner

Vs.

1. The Presiding Officer,
Additional Labour Court,
Vellore District,
Vellore.

2. Kuppan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, prayed to issue a Writ of Certiorari, calling for the records pertaining to the order passed by the learned Judge, Additional Labour Court, Vellore District, Vellore, dated 02.12.2010 in I.D.No.92 of 2007 and to quash the same.

For Petitioner : Mr.C.S.K.Sathish

For Respondent-2 : Mr.A.Esakkiappan

O R D E R

This Writ Petition is heard through Video Conferencing on 26.10.2021.

2. The second respondent herein, who served as a driver under the petitioner's Corporation, caused a fatal road accident on 09.12.1999, in which two persons died and one person



sustained injuries. He was subjected to disciplinary action and ultimately, was dismissed from services on 01.12.2000. In the industrial dispute raised by him against the order of dismissal, the Labour Court found that there were no independent eye-witnesses examined by the petitioner's Corporation and accordingly, held that the accident could not have happened owing to the rash and negligent driving of the second respondent since such a charge was not corroborated by eye-witnesses. In this background, the Labour Court had ordered for reinstatement with 25% of the back wages to the second respondent herein, through an impugned award dated 02.12.2010. Challenging the said award, the present Writ Petition has been filed by the petitioner's Corporation/Management.

3. The main ground raised by the learned counsel for the petitioner's Corporation is that the findings of the Labour Court are contradictory. By referring to para 7 of the impugned order, the learned counsel submitted that the Labour Court, though had found that there were no independent eye-witnesses, who could have testified on the rash and negligent driving of the second respondent herein, had also observed that the driver should have taken more caution while driving in important roads and consequently observed that there was also a possibility of negligence on the part of the driver resulting in the said accident.

4. It is not the case of the petitioner's Corporation that the award was passed on the basis of "no evidence". On the other hand, the only factor which determines the charges to have been proved is the rash and negligent driving on the part of the driver. The Labour Court was indeed justified in holding that since there was no eye-witness, who had deposed on the rash and negligent driving of the second respondent, the enquiry officer could not have come to a conclusion that the accident had occurred only due to the rash and negligent driving of the second respondent. The only witness examined on the part of the Management/petitioner's Corporation was the Inspection Officer, who had inspected the scene of occurrence after the accident had taken place. Moreover, eye-witness Elumalai was not examined. As such, I do not find any infirmity in the finding of the Labour Court in holding that the driver cannot be held liable for rash and negligent driving, in the absence of any eye-witness.

5. The Labour Court had also taken into account that the second respondent ought to have been careful in the regular route which he is driving and apparently, on this basis, had reduced the back wages to 25%. This Court is of the view that 25% of the back wages thus awarded, is just and reasonable. However, since the second respondent herein has now reached the



age of superannuation, ordering for reinstatement would not be feasible. Even otherwise, in view of the finding of the Labour Court that the driver ought to have been more careful while driving, the portion of the impugned award ordering for reinstatement could be interfered with.

6. For the foregoing reasons, the portion of the impugned award passed by the Additional Labour Court, Vellore dated 02.12.2010, ordering reinstatement of the second respondent is concerned, has become redundant and therefore is declared as infructuous. The order of dismissal dated 01.12.2000 is set aside. Consequently, the second respondent herein would be entitled for 25% of the back wages, as ordered by the learned Additional Judge, Labour Court, Vellore District in I.D.No.92 of 2007 dated 02.12.2010. The Writ Petition stands ordered accordingly. Consequently, the connected Miscellaneous Petitions are closed. There shall be no orders as to costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

DP/hvk

To

The Presiding Officer,
Additional Labour Court,
Vellore District,
Vellore.

+1cc to M/s.J.Lenin, Advocate, S.R.No.55196

+1cc to Mr.C.S.K.Sathish, Advocate, S.R.No.55008

W.P.No.18362 of 2011
and
M.P.No.1 of 2011 & M.P.No.1 of 2014

JPL (CO)
SU (10/01/2022)