

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

THE HONOURABLE MR. JUSTICE M.GOVINDARAJ

WP NO.16504 OF 2015

AND MP NO.1 OF 2015

The Management
Tamilnadu State Transport Corporation
(Villupuram Division - II) Ltd.
Thiruvannamalai Region
Thiruvannamalai.
Rep. by its General Manager ... Petitioner

Versus

1.The Presiding Officer
Principal Labour Court
Vellore.

2.K.Udayasuriyan ... Respondents

PRAYER: Writ 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.157 of 2014 and quash the award passed in I.D.No.157 of 2014 dated 29.01.2015 as illegal.

For Petitioner : Mr.K.J.Sivakumar
For Respondent-2 : Mr.S.T.Varadarajulu

O R D E R

Challenging the award of the Labour Court ordering reinstatement of the second respondent / workman, without backwages, the petitioner / Management has preferred the above Writ Petition.

2.According to the petitioner, the second respondent was working as a Driver in Arani Branch of the petitioner / Transport Corporation and was assigned duty in a Bus bearing No.TN23-2700 plied between Chennai and Tiruvannamalai. On 07.03.2010, he committed a head on collision with another bus belonging to the petitioner / Transport Corporation bearing No.TN32-N-2780 which was proceeding on the other side of the road. In the accident, five passengers died and several others were seriously injured. Therefore, for the rash and negligent

driving of the second respondent, a FIR was registered in Crime No.119/2010 under Section 304-A IPC. The petitioner / Management has issued a charge memo and the Enquiry Officer has found the charges proved. Thereafter, considering the past service of the second respondent in involving three other fatal accidents and minor punishment imposed on him, he was terminated from service. The Labour Court has also approved the termination order, against which, the second respondent raised an industrial dispute before the Labour Court, wherein, he was directed to be reinstated, without backwages. According to the petitioner, the award of the Labour Court is perverse, for not considering the evidence in proper perspective. The involvement of the second respondent in three other fatal cases and the punishment imposed on him deserves him the punishment of termination. Without considering it, the Labour Court has set aside the punishment and ordered reinstatement. Therefore, the award of the Labour Court is liable to be set aside.

3.I have considered the submissions made on either side and perused the materials available on record.

4.On a perusal of the Labour Court award, it is seen that the accident had not happened due to the rash and negligent driving by the second respondent. On the fateful day, the second respondent was driving the Bus in an "U" bend road and at that time, a Cow crossed the road from left to right and hence, he applied sudden break. When he was about to move the Bus, the other bus coming from the opposite direction hit the bus on his right side and thus, the accident had occurred. Therefore, it can be easily inferred that the Driver of the Bus, while starting the Bus after applying the break, would not have driven, in a rash and negligent manner. It is also imperative to note that the Driver coming in the other direction should also be vigilant to avoid the accident. Only because the other Driver happened to be the complainant, the FIR was filed against the second respondent. But however, the Labour Court has categorically found on the basis of the evidence that the lapse for the occurrence was shown as nothing and there was no rash driving on the part of the second respondent. The Labour Court has considered the past record of the second respondent and found that there were adverse entries against him and the punishment imposed on the basis of the past record is also not sustainable. The Labour Court has given acceptable reasons for its findings. I do not find any perversity in the award passed by the Labour Court. The Labour Court has rightly come to the conclusion that the punishment of termination is disproportionate and has rightly set aside the same. But however, denied backwages. Therefore, the award of the Labour Court, does not require any interference.

5. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

TK

To

The Presiding Officer
Principal Labour Court
Vellore.

- 1 cc to Mr. K.J. Sivakumar, Advocate SR.21719
- 1 cc to Mr. S.T. Varadarajulu, Advocate SR.21787

WP NO.16504 OF 2015

AK-II(CO)
EU 7.5.2021



WEB COPY