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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.6680 of 2005

and

W.P.No.18591 of 2006

W.P.No.6680 of 2005:

The Management of Tamilnadu
State Transport Corporation
Coimbatore Division-II,
Erode 638 001.

... Petitioner

vs.

1. A.Karunanidhi (deceased)

2. The Presiding Officer,
Labour Court, Salem.

3. K.Sumathi

4. K.Sangeetha

5. K.Sindhu

6. K.Mageshwari

... Respondents

(R3 to R6 substituted as legal heirs of the deceased R1 vide order dated 04.02.2011 in W.P.M.P.No.71 of 2011 in W.P.No.6680 of 2005)

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari, calling for the records of the second Respondent made in I.D.No.536 of 2000, dated 27.05.2003 and quash the same.

For Petitioner : Mr.A.Sundaravadanan

For 1st Respondent : Mr.V.Ajay Khose

W.P.No.18591 of 2006:

1. A.Karunanidhi (Deceased)

2. K.Sumathi

3. K.Sangeetha

4. K.Sindhu

5. K.Mageshwari

... Petitioners



(P2 to P5 substituted as Legal Heirs of the deceased 1st Petitioner A.Karunanidhi, vide order dated 04.02.2011 in W.P.No.18591 of 2006)

vs.

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1. The Management of Tamilnadu State Transport Corporation
Coimbatore Division-II,
Erode 638 001.
2. The Presiding Officer,
Labour Court, Salem. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus after calling for the records pertaining to the Award dated 27.05.2003 passed by the second respondent in I.D.No.536 of 2000, quash the same insofar as depriving the Petitioner entire backwages and consequently direct the 1st Respondent to pay the Petitioner entire backwages for the period of non-employment, together with interest.

For Petitioners : Mr.V.Ajay Khose

For 1st Respondent : Mr.A.Sundaravadanan

C O M M O N O R D E R

Challenging the Award dated 27.05.2003 passed by the Labour Court, Salem in I.D.No.536 of 2000, the Transport Corporation has filed W.P.No.6680 of 2005, and the employee has filed W.P.No.18591 of 2006, insofar as deprival of entire backwages is concerned and for a consequential direction to the Management of the Transport Corporation to pay him entire backwages for the period of non-employment, together with interest.

2. Since the issue involved in both cases is one and the same, Writ Petitions are taken up for disposal by a common order.

3. As the employee herein died during the pendency of the Writ Petitions, his legal heirs have been brought on record.

4. Heard the learned counsel for the parties and perused the material documents available on record.

5. In the case on hand, the employee, who was employed as a Driver, had caused an accident while on duty, due to which, a pedestrian died. Before the Labour Court, the employee had



stated that, an old lady suddenly crossed the road without noticing the plying of a bus, and fell down on the road by losing her balance and thus, sustained head injuries. The Management witness has stated that, he has not witnessed the accident, however, he has gone to the spot and submitted a Report. The fact that, the old lady had crossed the road without noticing the vehicle is nothing but an accident and that, the employee cannot be foisted with the major punishment, is the finding of the Labour Court. However, the Labour Court has held that, the employee had already caused an accident, for which, he has been found guilty by the Criminal Court and punishment was also imposed on him.

6. Though, the Labour Court has held that, the employee cannot be held responsible for the accident in question, however, taking note of his past conduct, has deprived him backwages alone, but has ordered the Transport Corporation to reinstate the employee into service, with continuity of service and other benefits, within a period of two months.

7. This Court finds that, the Award of the Labour Court is a finding of fact and it cannot be substituted with another view, even if it is possible. In view of the above, this Court does not find any perversity in the finding of the Labour Court. Based on the Award of the Labour Court, the Transport Corporation is directed to settle all the terminal benefits to the legal heirs of the deceased employee, within a period of four months from the date of receipt of a copy of this order.

In fine, both Writ Petitions are dismissed with the above direction. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Management of Tamilnadu
State Transport Corporation
Coimbatore Division-II,
Erode 638 001.



2. The Presiding Officer,
Labour Court, Salem.

+1cc to Mr.V.Ajay Khose, Advocate, S.R.No.36766

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W.P.No.6680 of 2005 and
W.P.No.18591 of 2006

NR(CO)
CT(28/09/2021)