



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.6940 of 2019

The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd., Vazhuthareddy,
Salamedu, Villupuram Region,
Villupuram - 605 602.

...Petitioner

VS.

- 1.A.Sundaravadivelu (deceased)
- 2.The Special Deputy Commissioner of Labour,
D.M.S. Compound, Chennai.
- 3.S.Krishnagandhi
- 4.S.Anbarasan
(R3 & R4 substituted as Legal Heirs of R1
vide order dated 04.02.2021 in W.M.P.
No.13901 of 2020 in W.P.No.6940 of 2019)

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, calling for the records of the Special Joint Commissioner of Labour, Chennai made in A.P.No.253 of 2012 dated 22.03.2018 and quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

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

For Respondents 3 & 4 : Mr.J.Muthukumaran

O R D E R

Petitioner/Transport Corporation has come up with this Writ Petition challenging the order dated 22.03.2018 passed by the 2nd Respondent/Authority in A.P.No.253 of 2012.

2. It is seen that, the 2nd Respondent/Authority has rejected the Approval Petition filed by the Petitioner/Transport Corporation on the ground that, domestic enquiry has not been conducted by following the principles of natural justice.



3. Heard the learned counsel on either side and perused the material documents available on record.

4. A reading of the enquiry proceedings makes it clear that, cross-examination was not permitted to be done in the enquiry. Hence, the Authority has come to the conclusion that, there is no legal evidence to establish the charges against the employee and that, there is victimization.

5. When the domestic enquiry has not been conducted properly, the matter needs to be remanded to the Authority in order to enable the employer to establish the charges against the employee, provided the employer has sought for permission to let in evidence. The Apex Court in the case of John D' Souza vs. Karnataka State Road Transport Corporation reported in (2019) 18 SCC 47, has held that, the employer is empowered to let in evidence.

6. However, in the case on hand, it is seen that, the 1st Respondent/employee attained superannuation on 31.01.2019 and he died on 31.10.2019. He had lived just over eight months from the date of retirement.

7. Though a settlement has been suggested, it is represented by the learned counsel appearing for Respondents 3 and 4 that, his clients are not willing to accept the suggestion made by the Petitioner/Transport Corporation.

8. As there is no possibility of establishing the charges against the employee at this distant point of time, moreso, when the employee is no more, this Court finds no merit in this Writ Petition and the Writ Petition is liable to be dismissed.

9. In view of the same, the Petitioner/Transport Corporation is expected to extend all the benefits due to the deceased employee to his legal heirs, i.e. to Respondents 3 and 4 herein, within a period of six months from the date of receipt of a copy of this order and Family Pension, if any, shall be paid to the eligible legal heir from the date of demise of the employee.

In fine, the Writ Petition stands dismissed with the above direction. No costs. Consequently, connected W.M.P.Nos.7681 and 17693 of 2019 are closed.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

(aeb)



To:

The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai.

+1cc to Mr.C.S.K.Sathish, Advocate SR.No.37633

W.P.No.6940 of 2019

PMK(CO)
RVM(21/09/2021)