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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2021

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THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

W.P. No. 26453 of 2016

The Management,
Represented by its Managing Director,
Tamil Nadu State Transport Corporation
(Coimbatore) Limited,
No.37, Mettupalayam Road,
Coimbatore - 37.

... Petitioner

-vs-

1. A.Veliyangiri
Driver, No.012321,
S/o Arumuga Gounder,
12, Selvakumar Gounder Street,
Vadukampalyam, Pollachi - 642 001.

2. The Special Duty Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.

... Respondents

Prayer:- 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 A.P. No. 230 of 2013 vide its order dated 05.11.2015 and to quash the same as an illegal and against the provisions of the Industrial Disputes, 1947.

For Petitioner : Mr.A.Sundaravadanam

For Respondents: Mr.V.Ajay Khose for R1

Mr.L.S.M.Hasan Fizal
Government Advocate for R2



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O R D E R

Petitioner / Transport Corporation has come up with this Writ Petition challenging the order dated 05.11.2015 passed by the second respondent in Approval Petition No.230 of 2013.

2. It is represented by the learned counsel for the petitioner / Transport Corporation that, the first respondent / employee joined the services of the petitioner / Transport Corporation as a Driver. While the first respondent was on duty on 10.12.2012, he was responsible for a fatal accident and after conducting due enquiry, he was dismissed from service on 14.08.2013.

3. It is seen that, the Labour Court rejected the Approval Petition filed by the petitioner / Transport Corporation on 05.11.2015 on the ground that, there was no witness to the fatal accident caused by the first respondent.

4. The learned counsel for the petitioner / Transport Corporation contended that, the decision taken by the second respondent / Authority is beyond his scope and it is not in consonance with the guidelines framed by the Apex Court in the decision rendered in the case of Lalla Ram vs. Management of D.C.M. Chemical Works Ltd. reported in AIR 1978 SC 1004. According to the learned counsel, even hearsay evidence is admissible to establish accident cases.

5. Today, when the matter is taken up for hearing, the learned counsel appearing for the first respondent / employee submitted that, the first respondent / employee accepted the proposal given by the Government vide Letter No.5370/C2/2021, dated 24.07.2021 in respect of Clause No.2(i) alone. For better appreciation, the said clause is extracted hereunder:

2. There were 283 cases, except TNSTC (MDU) placed before the Board for discussion. After detailed deliberations, the following decisions were taken:

(i) In respect of Ex-employees having required qualifying service for pension under 1998 Scheme to go on compulsory retirement on the date of dismissal and to allow eligible retirement benefits as per Rules in force.

6. Taking note of the submissions of the learned counsel on either side and as the first respondent / employee has agreed to accept clause 2(i) of the proposal made by the Government, the



first respondent / employee is permitted to go on compulsory retirement on the date of dismissal and he is entitled to eligible retirement benefits, such as Gratuity, Pension and Provident Fund, as per the Rules in force.

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7. The Writ Petition is disposed of accordingly. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

vji

To

The Special Duty Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.

W.P. No. 26453 of 2016

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