



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:22.02.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.8677 of 2012

and

M.P. (MD) .No.2 of 2012

WEB COPY

The Management through
the General Manager,
Tamil Nadu State Transport Corporation,
Ranithottam,
Nagercoil,
Kanyakumari District.

... Petitioner

Vs.

1.The Presiding Officer,
The Labour Court,
Tirunelveli.

2.The General Secretary,
Tamilaga Arasu Pokkuvarathu Thozhilar Sangam,
4,KKM, Ranithottam,
Nagercoil,
Kanyakumari District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records from the first respondent Labour Court, Tirunelveli relating to the impugned award passed in I.D.No.44 of 2008 dated 15.12.2011 and quash the same.

For Petitioner : Mr.K.Sathiya Singh

For Respondent No.2 : Mr.S.Arunachalam

Respondent No.1 : Labour Court

O R D E R

This writ petition has been filed against the impugned award, dated 15.12.2011, passed by the Labour Court, Tirunelveli, in I.D.No.44 of 2008.

2. The case of the petitioner is that while the delinquent Driver Vallappan was working under the petitioner Transport Corporation, he was awarded with the punishment of stoppage of increment of salary for two years with cumulative effect for which



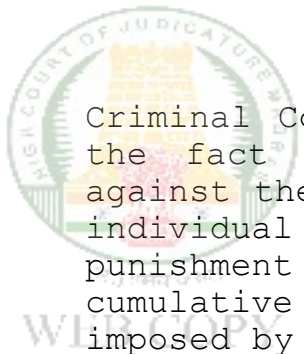
he raised industrial dispute before the Labour Court in I.D.No.44 of 2008 and the Labour Court, by order, dated 15.12.2011 set aside the punishment imposed against the delinquent Driver Vallappan. Aggrieved against the same, the petitioner Corporation filed this writ petition with the above said prayer.

3. The learned counsel for the petitioner would submit that admittedly, on the particular day, while Vallappan was driving the petitioner's Corporation bus bearing Registration No.TN-74-N-0427, due to Visagam festival, there was a huge crowd of passenger inside the Tirunelveli Junction, at that time due to rash and negligent driving, the delinquent driver hit against a passenger and caused injuries and the injured was admitted in the hospital and thereafter declared dead. For the above said lapses, the said Vallappan was issued show cause notice and after appointing enquiry officer, domestic enquiry was conducted and after completion of enquiry, he was imposed with punishment of stoppage of increment of salary for 2 years with cumulative effect. Challenging the said order, Vallappan filed Industrial Dispute in I.D.No.44 of 2008. He would further submit that without considering the fact that due to rash and negligent driving of Vallappan, the accident was occurred and without considering his past service records, which reveals that he was previously involved in rash and negligent driving, and even without considering the fact that the criminal appeal filed by the delinquent against the order of conviction, which was also dismissed, the Labour Court mechanically set aside the finding of the domestic enquiry and dismissed the same, which is not sustainable in law. Hence, he prays for allowing this writ petition.

4. Heard the submissions made on either side and perused the materials available on record.

5. Per contra, the learned counsel appearing for the second respondent would submit that on the particular day, due to overcrowd and suffocation, the victim died and not as contended by the learned counsel for the petitioner's Corporation. He would further submit that the postmortem report was not marked before the enquiry officer as well as the trial Court in order to prove the fact that the deceased was died due to the rash and negligent act of the individual Vallappan. Hence, after ascertaining the entire issue, the Labour Court set aside the punishment imposed by the Management, which cannot be interfered by this Court. Therefore, he prays for dismissal of this writ petition.

6. Considering the facts and circumstances of the case, the facts in the present case are not disputed that the accident was occurred on 28.05.1999 and on the particular day, the individual Vallappan was driving the petitioner's Corporation bus bearing Registration No.TN-74-N-0427 inside the Tirunelveli Junction and on instruction of the local public, said Vallappan and the conductor of the bus had taken the injured person to the hospital, where the injured person was declared dead. However, it is also not disputed that the



Criminal Court convicted the said individual for 18 months. Though the fact remains that the trial Court also imposed punishment against the said individual driver and the appeal filed by the said individual was also dismissed, the Management imposed the minor punishment of stoppage of increment of salary for two years with cumulative effect. In such circumstances, the minimum punishment imposed by the Management, which was interfered by the Labour Court, is not appreciable and hence, the order of the Labour Court is perverse in nature and accordingly, the said order is liable to be interfered with.

7. In the light of the above observation, the order of the Labour Court, Tirunelveli, passed in I.D.No.44 of 2008, dated 15.12.2011 is set aside and this writ petition stands allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Presiding Officer,
The Labour Court,
Tirunelveli.

+1 CC to M/s.K.SATHIYA SINGH, Advocate (SR-6791[F] dated 23/02/2021)

W.P. (MD)No.8677 of 2012

22.02.2021

—
ES (CO)

KK(23.03.2021) 3P 3C

<https://hcservices.ecourts.gov.in/hcservices/>