



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.1733 of 2015

The Management,
Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Kancheepuram.
Rep. by its General Manager.

... Petitioner

-Vs-

1.Thiru.R.Govindan
2.The Special Joint 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, to call for the records passed by the 2nd respondent in A.P.No.445 of 2011 dated 14.08.2013 and to quash the same.

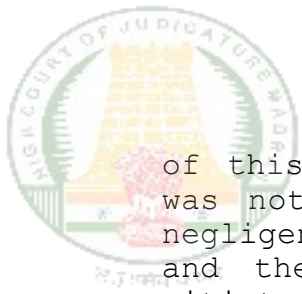
For Petitioner : Mr.G.Saravana Kumar
For R1 : Mr.N.Sundaramurthy
For R2 : Mr.C.Selvaraj,
Additional Government Pleader

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. In connection with an accident alleged to have been caused by the first respondent herein on 19.11.2009, charges came to be framed against him and pursuant to the enquiry report, the first respondent was dismissed from the services on 31.10.2011. The approval petition in A.P.No.445 of 2011 under Section 33(2)(b) of the Industrial Disputes Act, 1947 was filed by the management on 31.10.2011 and through the impugned order dated 14.08.2013, the approval petition was rejected, which is under challenge in the present writ petition.

3. During the course of enquiry, the management had examined one witness, who was a Time Keeper and who had inspected the accident site later. The authority under the Act had taken note



of this fact and found that since the sole management witness was not an eye witness to the accident at all, the rash and negligence cannot be attributed to the first respondent/Driver and therefore was of the view that the enquiry itself was vitiated. In this manner, the approval petition came to be rejected.

4. Before the authority also, the management had not chose to let in any oral evidence. When there was no eye witness at all to the accident, there was no other material to enable the enquiry officer to come to the conclusion that there was negligence on the part of the Driver in having caused the accident. While that being so, I do not find any infirmity in the findings of the authority while rejecting the approval petition. As such, the impugned order does not require any interference.

5. The first respondent herein was dismissed from services on 31.10.2011 and in view of the rejection of the approval petition, he is deemed to have continued in service without reference to the dismissal order. It is stated that the first respondent had reached the age of superannuation on 30.06.2012 and from the date of dismissal, he was paid the last drawn wages under Section 17B of the Industrial Disputes Act. Since this Court is of the view that the dismissal order cannot be sustained, the first respondent could be entitled for the difference in wages.

6. At this juncture, the learned counsel appearing for the first respondent would submit that the difference in wages payable to the first respondent between 31.10.2011 and 30.06.2012 could be adjusted towards the Provident Fund contributions.

7. In the light of the above observations, I do not find any merits in the present writ petition. Accordingly, the Writ Petition stands dismissed. In view of the dismissal of the present writ petition, the petitioner/Corporation shall endeavour to disburse all the monetary benefits, including the difference of wages, after adjusting the Provident Fund contributions and pass appropriate orders for disbursement of the benefits, within a period of four (4) weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



hvk

To

WEB COPY

1. The General Manager,
The Management,
Tamilnadu State Transport
Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Kancheepuram.
2. The Special Joint Commissioner of
Labour (Conciliation),
DMS Compound, Chennai.

+1cc to Mr.G.Saravana Kumar, Advocate, S.R.No.1799
+1cc to the Government Pleader, S.R.No.2255

W.P.No.1733 of 2015

UM(CO)
CT 31/01/2022