



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2022

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.31429 OF 2013

AND

M.P.NO.1 OF 2013

The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Vellore Region,
Vellore - 632 009.

... Petitioner

Vs

1. Special Deputy Commissioner of Labour Chennai,
D.M.S.Compound,
Chennai - 600 006.

2. D.Subramani

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, directing to call for the records of the 1st respondent made in Approval Petition No.198 of 2010 dated 27.12.2012 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.G.Saravanakumar

For Respondents : Mr.E.Veda Bagath Singh,
Special Government Pleader for R1
Mrs.Ramapriya Gopalakrishnan
for R2

O R D E R

The 2nd respondent herein while serving as a driver in the petitioner Corporation was subjected to departmental proceedings on the charge that he had caused a fatal accident. Pursuant to the proven charges, he was imposed with the punishment of dismissal from service on 18.10.2010. In the application filed by the petitioner under Section 33(2)(b) of the Industrial Disputes Act, the enquiry officer had held the charges to be



proved without any prima facie case before him. Challenging the rejection order, the present writ petition has been filed.

2. The Hon'ble Supreme Court in the case of Lalla Ram Vs. Management of D.C.M. Chemical Works Ltd. and others reported in AIR 1978 SC 1004, had narrowed the scope of interference in a petition under Section 33(2)(b) of the Industrial Disputes Act and among the few circumstances in which the Authority may interfere, the issue as to whether the charges were proved on the basis of prima facie case was one exception. In the instant case, the Authority had taken note of the fact that there were no eye witness to the accident alleged to have been caused by the 2nd respondent herein and therefore had rejected the petition.

3. Admittedly, the only witness who was examined during the departmental enquiry was a time keeper, who had not witnessed the accident and may not be appropriate witness to substantiate that the accident had occurred owing to the rash and negligence of the driver. While that being so, I do not find any infirmity on the findings of the Authority that there was no prima facie case before the enquiry officer for having the charges proved.

4. At this juncture it is brought to the notice of the Court that the 2nd respondent herein had reached the age of superannuation on 31.05.2015. As such, the 2nd respondent would be entitled for all the service and monetary benefits including the pension benefits from the date of his dismissal till the date of superannuation, as if he was never dismissed from service.

5. In the light of the above discussion, the writ petition stands dismissed. Consequently, there shall be a direction to the petitioner Management to disburse the retirement benefits including the back wages between 18.10.2010 till 31.05.2015 and by counting this period as the petitioner's service period, the petitioner shall endeavour to pass appropriate orders to disburse the retirement benefits atleast within a period of six (6) weeks from the date of receipt of a copy of the order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

dsa



To

1. The Special Deputy Commissioner of Labour Chennai,
D.M.S.Compound,
Chennai - 600 006.

2. The General Manager,
Tamil Nadu State Transport Corporation (Villupuram) Limited,
Vellore Region,
Vellore - 632 009.

+1cc to Mr.G.Saravanakumar, Advocate, S.R.No.13434
+2ccs to Mrs.Ramapriya Gopalakrishnan, Advocate, S.R.No.13184
+1cc to the Government Pleader, S.R.No.13386

W.P.No.31429 of 2013

SJ(CO)
PM/16/03/2022