



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P. (MD) .No.10530 of 2015

R.Arumugam

... Petitioner

Vs.

1.Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Represented by its Managing Director,
Coimbatore.

2.The General Manager,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Coimbatore.

3.The Branch Manager,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Palani Branch-I,
Palani, Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in Ref.1/G5/664/Tha.Aa.Po.Th/09 dated 13.12.2010 as confirmed by the first respondent in Ref.No.L2/Sattam-1/W.P.MD.No.10727/14/Tha.Na.Po.Ka (Ko)/14 dated 17.10.2014, quash the same.

For Petitioner : A.Rahul

For Respondents : Mr.D.Sivaraman

ORDER

This Writ Petition has been filed to quash the impugned order dated 13.12.2010 passed by the 2nd respondent and confirmed by the first respondent vide order dated 17.10.2014. The impugned order has imposed punishment of stoppage of increment for two years with cumulative effect.



2. The facts of the case are that the petitioner was appointed as a Driver on 09.12.1995. On 11.12.2009, while the petitioner was driving the bus, he met with an accident by hitting a moped motor cycle. In the moped motor cycle, three persons had travelled. The contention of the petitioner is when he was travelling in a normal speed, the motor cycle was driven by the teenager with two other persons hit the bus and they sustained injuries and the petitioner did not drive the vehicle in rash and negligence way and therefore the punishment imposed on the petitioner is erroneous.

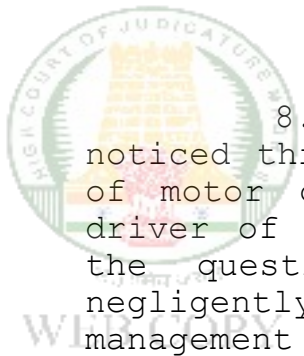
3. The respondents filed counter affidavit stating that the disciplinary proceedings were initiated and the petitioner filed a Writ Petition in W.P. (MD). No. 10727 of 2014 and this Court vide order dated 03.07.2014 directed the respondents to consider the appeal filed by the petitioner. Thereafter, the impugned proceedings came to be passed. The respondents contended that the fatal accident was due to rash and negligent driving of the petitioner. The respondent Corporation Investigating Officer submitted an accident report on the above accident. Based on the available records and after giving sufficient opportunity to the petitioner, the enquiry was conducted and the petitioner was found guilty thereafter, the punishment was imposed on the petitioner. In the MCOP case, the tribunal directed the respondents to pay compensation to the tune of Rs.297400/- and Rs.14062/-.

4. Heard A.Rahul, learned counsel for the petitioner and Mr.D.Sivaraman, learned counsel for the respondents.

5. The contention of the petitioner that the respondents are taking two different stands two different courts, before the MCOP Tribunal the Corporation takes a stand that the delinquent has not driven rashly and before the Criminal Court the Corporation takes a stand that the delinquent has driven rashly.

6. The respondents contended that based on the 12(3) Settlement the Corporation would decide the punishment on the delinquent. In the said settlement it is stated that, if the delinquent was acquitted based on evidence then the punishment imposed by disciplinary proceedings would be reconsidered. If the delinquent was acquitted based on benefit of doubt, then the punishment imposed by disciplinary proceedings would not be reconsidered. However, the settlement also states that the same will be decided after taking opinion from the Legal Cell.

7. In the present case, the Criminal Court has acquitted the petitioner employee by stating that "insufficient evidence to prove the rashness and negligence of accused beyond reasonable doubts". Therefore the contention of the respondent is the punishment already imposed cannot be revisited.



8. On perusing the records, it is seen that the driver noticed three persons are travelling in the motor cycle and riding of motor cycle by three persons is prohibited, which means the driver of the motor cycle has driven the vehicle negligently. Now the question arises whether the driver of the bus driven negligently. On perusing all the evidence, it is seen that the management has carried out spot inspection and based on the accident report the entire disciplinary proceedings have been conducted. The report states that the pillion driver was thrown 40 feet away. Therefore, the Management has come to the conclusion that the driver has also driven the vehicle in rash and negligent way. But the Management had not enquired the conductor who accompanied the driver in the same bus. Therefore, this Court is of the considered opinion that the benefit of doubt shall be granted to the petitioner.

9. The Management contended that the matter may be remitted back for reconsideration. This Court is of the considered opinion that the accident occurred in the year 2009, the writ petition was filed in the year 2015, therefore remitting back to the authorities will not serve any purpose. Hence in order to end the litigation, this Court inclined to modify the punishment. The punishment is modified as stoppage of increment for one year without cumulative effect.

10. With this modification, the Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Nsr

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

1.The Managing Director,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Coimbatore.



2.The General Manager,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Coimbatore.

3.The Branch Manager,
Tamil Nadu State Transport
Corporation (Coimbatore) Limited,
Palani Branch-I,
Palani,
Dindigul District.

+1 CC to M/s.D.SIVARAMAN, Advocate (SR-8457[F] dated 24/02/2022)

+1 CC to M/s.A.RAHUL, Advocate (SR-8860[F] dated 25/02/2022)

**W.P. (MD) .No.10530 of 2015
24.02.2022**

RK(17/03/2022) 4P 6C