



W.P.No.2230 of 2019 & W.M.P. No.2485 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2023

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THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.2230 of 2019 &
W.M.P. No. 2485 of 2019

The Management
Metropolitan Transport Corporation
Chennai 600 002.

... Petitioner

Vs.

The General Secretary
State Transport Employees Union
Chennai - 600 002.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ, order or direction of like nature calling for the records pertaining to the Award passed in I.D. No.363 of 2017 dated 16.10.2018 on the file of the I Additional Labour Court, Chennai.

For Petitioner : Mr.M.Chidambaram
For Respondent : Mr.T.Karkkivelan



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ORDER

This petition is filed by the Management of Metropolitan Transport Corporation, Chennai 600 002, against the Award dated 16.10.2018 by the I Additional Labour Court, Chennai, in ID No.363/2017.

2. Briefly the facts:

2.1. Mr.P. Deenadayalan, driver and Mr.C.Tellus, Conductor in Metropolitan Transport Corporation (MTC) were on duty on 04.10.2010 in the bus in route No.29E plying between Perambur and Tiruverkadu. According to their Union which approached the Labour Court in I.D. No.363/2017, when the bus was starting from the Vembuliamman Koil stop on the Poonamallee High Road Near Vanagaram, a 65 year old passenger tried to board the bus through the front door and slipped and fell down. He was run over by the bus on the rear side and had suffered bleeding injury in his legs. He was rushed to the hospital where he succumbed to injuries. According to the Union,



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there was a strike in the Anna Nagar MTC depot due to which not many buses were plying and this bus was over crowded.

2.2. After the death of the 65 year old passenger, the Management found both the driver and the conductor to be negligent in their duty and issued them a charge memo (Ex.W3) on 03.12.2011. Earlier they were placed under suspension on 05.10.2010. Subsequently, a domestic enquiry was conducted which found both of them guilty of negligence and dereliction of duty. A second show cause notice (Ex.W7) was issued to them on 06.08.2012 asking them to show cause regarding the proposed punishment of 'PC for removal'. The delinquent driver and conductor had explained that the accident was due to the negligence of the victim who had a bag in one hand and was having some snacks from the roadside eatery at the time of boarding the already overcrowded bus. This explanation did not convince the Disciplinary Authority who vide his final order dated 30.08.2012 imposed the punishment of "postponement of annual increment by 3 years with cumulative effect" and also decided that the period of suspension be treated as leave,



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aggrieved over which, the present respondent filed a claim Petition in I.D. No.363/2017 before the I Additional Labour Court, Chennai.

2.3. The I Additional Labour Court found the decision of the Enquiry Officer and the consequent final order imposing the punishment of postponement of increment for three years as perverse and set aside the punishment, vide its Award dated 16.10.2018.

2.4. This has been challenged by the petitioner Corporation.

3. Mr.M.Chidambaram, learned counsel for the petitioner Corporation would contend that a lenient view was taken by the Management and the three year increment stoppage was only to avoid termination of employment which is the punishment provided for in the case of such negligent driving or negligence in performing duty. This the Labour Court had erred in setting aside the punishment.



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4. Per contra Mr.T.Karkkivelan, learned counsel for the respondent contended that it cannot be construed always that the driver and conductor are negligent in the event of an accident. He also argued that the job of the driver and conductor in Metropolitan Transport Corporation buses has become a stressful one and no punishment can be imposed strictly going by rules without considering the facts and circumstances together. Thus he argued that the Labour Court was right in granting the removal of the punishment.

5. It is true that an unfortunate accident took place on 04.10.2010 when the bus in route No.29E was leaving the Vembuliamman Koil bus stop near Vanagaram. It is also clearly evidenced that the bus was overcrowded whatever be the reason. Such overcrowding is not uncommon in the MTC buses plying in the Chennai City. It is also true that the standing orders of the petitioner MTC are very stringent and the driver and conductor of a bus are expected to exhibit utmost caution and care while driving and regulating the passengers besides ensuring that no one travel free (without ticket),



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checking the passengers, cautioning the passengers of the risk of foot board travel, etc. Thus both the driver and conductor do not have a pleasant job in hand. They deal with all sorts of passengers and some time even unruly or drunk passengers.

5.1. In this context, we need to look into the circumstances of the accident. It is quite unfortunate that the victim also was run over, succumbed to the injury on his legs. The Accident Report (Ex.W1) is clear that he tried to board the bus from the front entrance. The bus had just left as could be deciphered from the rough sketch. Negligence cannot be attributed to the bus driver and conductor alone. Many time the passengers also have to be blamed. In the instant case, what has weighed in the punishing authority's mind is the death of the passenger. There can be no two views on that. But a pragmatic view ought to have been taken on the circumstances. The control of the crowd by the conductor or the case in driving by the driver can be only to the extent of the practical situation. It cannot be made very theoretical.

5.2. However, the track record of the driver and conductor also play a vital role in deciding the punishment. In my opinion, the



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postponement of annual increment for three years seems to be very harsh on them. In the instant case, the passenger appears to have boarded the moving bus after it left the bus-stop and unfortunately he slipped and fell down. He was run over by the rear wheel and the injuries turned out to be fatal. If such unfortunate accidents are attributed to the bus driver and conductor, there will be no end to it. The Labour Court was correct in reasoning that the writ petitioner had not substantiated the alleged negligence of the bus driver.

6. The Writ Petition is, therefore, dismissed. No costs. Consequently connected Writ Miscellaneous Petition is closed. The Award dated 16.10.2018 passed by the Presiding Officer, I Additional Labour Court, Chennai, in ID No.363/2017, is confirmed.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

The General Secretary
State Transport Employees Union
Chennai - 2

2. The Presiding Officer, I Additional Labour Court, Chennai,



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R. HEMALATHA, J.
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