



W.P.No.24204 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Date of Reserving Order 13.07.2023	Date of Pronouncing Order 09.08.2023
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THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

WP.No.24204 of 2006

and

MP.Nos.1 of 2006 & 1 of 2007

Tamil Nadu State Transport Corporation
(Salem) Ltd., Rep. by its Managing Director
Salem

... Petitioner

Vs.

1.The Presiding Officer
Labour Court, Salem

2.E.Mathivanan
S/o.Ellappa Mudaliar
Boomisumuthiram, Kambai Nallur (PO)
Harur Taluk, Dharmapuri District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records of the 1st Respondent in I.D.No.78 of 2004 dated 03.01.2005 and quash the same.

For Petitioner : Mr.R.Balu

For Respondents : Mr.M.Selvam (for R2)



W.P.No.24204 of 2006

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ORDER

The Writ Petition has been filed by the Petitioner to call for the records of the 1st Respondent in I.D.No.78 of 2004 dated 03.01.2005 and quash the same.

2.The Transport Corporation is the Petitioner herein, seeks to set aside the award passed by the learned Presiding Officer, Labour Court, Salem, wherein direction for reinstatement without backwages and other benefits but with continuity of service excluding the period from 02.11.1995 to 03.11.2003 was issued.

3.The brief facts of the case is that the second Respondent has joined as a Driver on 26.12.1987 and he was lastly working in the Dharmapuri (Mfl.) Branch. While he was working as a driver in the Petitioner Corporation Bus bearing Reg. No.TN 29 N 0366 in the route Dharmapuri to Krishnagiri on 01.10.1994 due to his rash and negligent driving, he caused an accident with the stationed Tanker lorry parked on the left side of the road, due to which 3 persons died and 10 persons sustained serious injuries. As this was a serious



W.P.No.24204 of 2006

misconduct as per the Petitioner Corporation's standing order under Section 14

(3) C, a charge memo dated 10.10.1994 was issued to him. He has submitted his explanation dated 05.12.1994 for the said charge memo. Since his explanation was not satisfactory, domestic enquiry was conducted in accordance with the principles of natural justice. The Enquiry Officer gave his report finding him guilty of the charges. Based on the enquiry findings a second show cause notice dated 09.10.1995 proposing punishment of dismissal was issued to him. He has not submitted any explanation for the second show cause notice. After taking into account the past record of service and on the enquiry findings he was dismissed from service vide order dated 02.11.1995.

3(a).The second respondent had raised an Industrial Dispute case in I.D.78 of 2004 after a period of 9 years before the first respondent. Before the first respondent the validity of the domestic enquiry has not been challenged. The first respondent after taking into consideration the documentary evidence has taken the view that no eye-witness to the accident has been examined, no Motor Vehicle Report has been filed, since the workman had stated that there was a brake failure and the workman is not solely responsible for the accident



W.P.No.24204 of 2006

and hence has set aside the order of dismissal and ordered reinstatement without back wages and other benefits but with continuity of service excluding the period from 02.11.1995 to 03.11.2003 by order dated 03.01.2005. Aggrieved by the said order of the first respondent, the Petitioner Corporation preferred this Writ Petition.

4.Heard the learned counsel for the Petitioner and the learned counsel for the second Respondent.

5.After the commission of accident on 01.10.1994, wherein three person died and 10 person sustained serious injury, the driver of the State Transport corporation was issued with a charge memo as per the Corporation's standing order under Section 14(3)(c) on 10.10.1994. In the enquiry, the offence was also proved and accordingly he was dismissed from service. The second Respondent raised I.D. case after a period of nine years. In the Industrial Dispute claim, the Labour Court has specifically rendered a categorical finding that no eyewitness has been examined on behalf of the Management, further when it is a specific case of the driver/delinquent that the brake was not



W.P.No.24204 of 2006

functioning properly, the non examination of Motor Vehicles Inspector and non filing of the Motor Vehicle Inspector's report is to be held against the management.

6.It is a specific case of the delinquent before the Labour Court that a tanker lorry was parked on the road ahead the bus and another lorry came in the opposite direction and at this time the accident had taken place, since there was mechanical defect in the bus. With regard to the plea of mechanical defect in the vehicle in question, the management could have inspected the vehicle by Motor Vehicles Inspector and he could have filed a report. For the reasons best known, they have neither filed the Motor Vehicle Inspector's report and nor examined him. Hence, I find that the award of the Tribunal is well considered and does not warrant any interference of this Court.

7.Besides, the Labour Court has categorically held that the second Respondent/driver alone cannot be solely responsible for the occurrence of the accident and hence the Labour Court has ordered that it is not interfere with the backwages and ordered reinstatement without backwages and other benefits but



W.P.No.24204 of 2006

with continuity of service excluding the period from 02.11.1995 to 03.11.2003, and hence I find that Labour Court's order is well considered, well merited and does not require any interference of this Court.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.08.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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To

The Presiding Officer,
Principal Labour Court,
Vellore, Vellore District.



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W.P.No.24204 of 2006

RMT.TEEKAA RAMAN.J,

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Pre-delivery Order made in

WP.No.24204 of 2006

and

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Dated: 09.08.2023