



WP.No.19706 of 2010

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 22.08.2023

Coram:

THE HONOURABLE MRS.JUSTICE N.MALA

WP.No.19706 of 2010

The Tamil Nadu State Transport Corporation,
(Salem) Ltd,
Rep. by its Managing Director,
No.12, Ramakrishna Road,
Salem-636 997.

...Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Salem.
2. R.Kothandan

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari and to call for the records of the 1st Respondent in I.D.No. 37/2006 dated 14.11.2008 and quash the same.

For Petitioner : Mr.R.Babu
Standing Counsel
For Respondents : R1 - Court
R2 - M/s.L.Aishwarya Lakshmi
for M/s.K. Thiruvengadam



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ORDER

The Writ Petition is filed by the Tamil Nadu State Transport Corporation challenging the order passed in I.D.No.37 of 2006 dated 14.11.2008.

2. The undisputed facts are that the 2nd respondent is working as a driver under the petitioner corporation and that on 12.03.1999, while the 2nd respondent was making a trip from Hosur to Sitheri, the bus met with an accident resulting in the death of one passenger and injury to 71 passengers. The petitioner Corporation therefore issued a charge sheet on 29.03.1999 to the 2nd respondent under Section 16-k and (Q) of the Standing Orders. The 2nd respondent submitted his explanation on 06.04.1999 and as the petitioner was not satisfied with the explanation, a domestic enquiry was conducted in which the 2nd respondent participated and ample opportunity was given to him to produce documents and cross-examine the witnesses. On 01.09.1999, the enquiry officer filed his report holding that the charges against the 2nd respondent were proved. A second show cause notice was issued on 25.09.1999, calling for an explanation from the 2nd respondent, as to why he



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should not be dismissed from service. As the explanation was found to be unsatisfactory, the 2nd respondent's services were terminated on 04.05.2000. Therefore, the 2nd respondent disputing the same raised an Industrial Dispute in I.D.No.37/2006.

3. The Labour Court passed an award on 14.11.2008 setting aside the dismissal order of the 2nd respondent and further directed the petitioner Corporation to reinstate the 2nd respondent with continuity of service and backwages. Aggrieved by the order passed by the Labour Court, the petitioner Corporation has filed the above writ petition.

4. The learned counsel for the petitioner submitted that the award of the Labour Court was illegal, void and contrary to the well established principles of law. The learned counsel further submitted that the Labour Court failed to note, that it was the 2nd respondent's negligence that resulted in the accident and the consequent death of one passenger and injury to 71 passengers. The learned counsel for the petitioner therefore submitted that the award of the Labour Court was unsustainable and deserved to be set aside.



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5. The learned counsel for the 2nd respondent on the other hand supported the Labour Court's award and prayed for the dismissal of the writ petition as meritless.

6. According to the petitioner Corporation, the 2nd respondent drove the bus on 12.03.1999 in a rash and negligent manner and caused the death of one passenger and injuries to 71 passengers. As the accident was caused due to the negligence of the 2nd respondent a criminal case in Crime number 282/99 before the Harur police station was registered against him. The case was later dropped by the police officials.

7. It was the 2nd respondents case that the accident resulted due to mechanical defect and in support of the said plea, the 2nd respondent relied on the evidence of the conductor of the bus who was examined by the petitioner corporation. The conductor did not speak of any negligence on the part of the 2nd respondent. As the conductor who was an eye witness to the accident did not impute negligence on the 2nd respondent, the Labour Court was justified



in accepting the plea of the 2nd respondent that the accident occurred due to mechanical defect, more so when the conductor admitted that more than 200 persons travelled in the bus on the fateful day to attend a Government function organised by a Minister. The petitioner corporation was bound to lead contra evidence and the best evidence to dispel the 2nd respondents contention would have been the MVI report, which the petitioner failed to summon. Under the circumstances I am of the view that the submission of the 2nd respondent that due to over loading, the bus developed mechanical problem cannot be ignored. The Labour Court found that the departmental enquiry was conducted in a fair and proper manner. As the finding of the Labour Court is based on correct appreciation of the evidence on record, I find no over whelming reason to interfere with the same.

8. The learned counsel for the petitioner submitted that the accident occurred in the year 2000 but the dispute was raised only in 2006 i.e. after the lapse of 6 years. The learned counsel therefore submitted that the Labour Court ought to have rejected the claim petition on the short ground of delay and laches. I find that the said plea is taken for the first time in the writ



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petition, but was not taken in the counter filed to the claim petition before the Labour Court. Therefore in the absence of a plea, the Labour Court was justified in entertaining the dispute.

9. It is now fairly well settled that unless and until the finding of the Labour Court is found to be perverse, there cannot be a Judicial review of the Labour Court's Award and therefore I find no merit in the writ petition.

In the result the writ petition stands dismissed. There shall be no order as to costs.

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dsn

Index:Yes/No

Speaking Order:Yes/No

Neutral Citation:Yes/No



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N.MALA, J.

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