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W.P.Nos.30816 of 2005 and 12725 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 03.07.2023

PRONOUNCED ON : 17.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE RMT. TEEKAA RAMAN

W.P.Nos.30816 of 2005 and 12725 of 2006

and

W.M.P.No.16880 of 2006

W.P.No.30816 of 2005

S.Sampath (Deceased)

2.S.Sasikala

3.S.Suriya

4.S.Srinivas : Petitioners

[Petitioners 2 to 4 are substituted as LR's of the deceased sole petitioner vide order dated 24.02.2023 in W.M.P.No.16666 of 2021]

-VS-

1.The Presiding Officer,
Principal Labour Court,
Chennai.

2.The Management,
Pattukkottai Azhagiri
Transport Corporation Ltd.,
(now renamed as Tamil Nadu State Transport
Corporation (Villupuram) Limited,
Vellore Region,
Rangapuram, Vellore-9.

: Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the Award dated 14.07.2004 in I.D.No.245 of 1997 passed by the first respondent and quash the same insofar as depriving reinstatement as a driver, with continuity of service, back wages and other attendant benefits to the petitioner and consequently, direct the second respondent to reinstate the petitioner as driver with continuity of service, back wages and all other attendant benefits, award costs.

For Petitioners : Mrs.V.Porkodi
For R1 : Court
For R2 : Ms.S.Pavithra

W.P.No.12725 of 2006

The Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Vellore Region,
Rep. By its General Manager,
(Formerly known as Pattukottai
Azhagiri Transport Corporation)
Vellore.

: Petitioner

-VS-

1.The Presiding Officer,
Principle Labour Court,
Chennai.

2.S.Sampath (Deceased)

3.S.Sasikala



W.P.Nos.30816 of 2005 and 12725 of 2006

4.S.Suriya

5.S.Srinivas

: Respondents

[R3 to R5 are substituted as LR's of the
deceased second respondent vide order dated 24.02.2023
in W.M.P.No.16664 of 2021]

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the first respondent in I.D.No.245 of 1997 dated 14.07.2004 and quash the same.

For Petitioners : Ms.S.Pavithra

For R1 : Court

For R2 : Died

For R3 to R5 : Mrs.V.Porkodi

COMMON ORDER

For the sake of convenience, the parties are referred to as per their ranking in W.P.No.12725 of 2006.

2. The second respondent herein is the driver in the petitioner Transport Corporation.

3. As against the award passed in I.D.No.245 of 1997, dated



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14.07.2004, the workman has filed W.P.No.30816 of 2005 and the Management, Tamil Nadu Transport Corporation has filed W.P.No.12725 of 2006.

3.1. The writ petition in W.P.No.12725 of 2006, has been filed to quash the award of the first respondent dated 14.07.2004 in I.D.No.245 of 1997 and further direct the petitioner corporation to reinstate the second respondent in service as a fresh entrant and post him in office instead of posting him as a driver.

4. Brief facts of case :

4.1. The second respondent was working as a driver in the petitioner Corporation. On 11.05.1996, while he was on duty, the bus driven by him met with an accident while crossing a bridge at Thusimamandur. The bus hit against a jeep which was entering the bridge. Due to the said accident, five occupants of the jeep died on the spot and three of them died at Kancheepuram Government Hospital. Further, substantial damage was caused to the petitioner's bus. Hence, a charge memo dated 20.05.1996 was



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issued to the second respondent. He submitted his explanation on 17.06.1996. Since the explanation was not satisfactory, a domestic enquiry was conducted, following the principles of natural justice, in which, the second respondent fully participated. The Enquiry Officer held that the charges against the second respondent were proved. Taking into consideration the enquiry report and the past record of service of the second respondent, a second show cause notice was issued proposing the punishment of dismissal. The explanation of the second respondent, not being satisfactory, he was dismissed from service by an order dated 24.10.1996.

4.2. The second respondent has raised an Industrial Dispute before the first respondent in I.D.No.245 of 1997 challenging the order of dismissal. The first respondent by an order dated 14.07.2004 held that the charges against the second respondent had been proved and that his non-employment was justified, but dismissal from service amounts to economical death and directed to reinstatement of the second respondent in service as a fresh entrant and to post him in office instead of posting him as a driver.



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4.3. Aggrieved by the above order of the first respondent, the present writ petitions have been filed.

5. Having not satisfied with the award passed by the Labour Court in the said I.D.No.245 of 1997 in respect of non-awarding of continuity of service with back wages, the labour has filed W.P.No.30816 of 2005.

6. Heard. Perused the materials available on record.

7. The service matrix of the petitioner/labour Sampath as extracted *supra* are not in dispute. During the domestic enquiry, the petitioner himself examined and the management witnesses and sufficient and enough opportunity was given to the workman to defence his case. Before the Labour Court, the workman has examined himself as W.W.1 and marked Ex.W.1 to Ex.W.14. On the side of the Management, there was no oral evidence, but Ex.M.1 to Ex.M16 were marked. The Labour Court has framed the points for consideration as,



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(i) Whether non-employment of the labour is justified; if not

to what relief the labour is entitled to?

(ii) The petitioner before the Labour Court was driver

appointed on 11.05.1996.

8. The case of the petitioner in W.P.No.30816 of 2005, is that the petitioner was not at fault on the date and only due to the fault of the driver who drove the jeep on that day, the accident occurred. The further case of the petitioner is that the accident could have been averted by the jeep driver.

8.1. The case of the petitioner in W.P.No.12725 of 2006 is that it is the basic duty of the driver to safe guard the lives of the public who were travelling in the bus. It is also the case of the respondent-management that the petitioner could have averted the accident.

9. On consideration of both oral and documentary evidence and also taking note of the fact that though the learned Magistrate, who tried the



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road accident, which resulted in, 8 persons died and 20 persons were injured, in the appeal, the Principal Sessions Judge, Thiruvannamalai in C.A.No.27 of 2001 has ordered acquittal as could be seen from Ex.W.10 and Ex.W.11. After the accident, he was placed under suspension as could be seen from Ex.W.1 and charge memo was issued, investigation was completed and explanation to the charge memo was received, enquiry has been conducted, finding has been rendered as could be seen from Ex.W.1 to W.6. Second show cause notice was issued under Ex.W.7 and it was duly served upon him and he also gave a reply and thereafter, order has been passed. The criminal appeal in C.A.No.27 of 2001 has also been filed and the same was disposed of under Ex.W.12.

10. The learned counsel appearing for the Management drew our attention to Ex.M.3 report submitted by the Branch Manager with sketch and also Ex.M.10 enquiry finding. It is seen from the records produced by the Management that there was a tyre mark on the road up to the length of 10 inches and there is absolutely no jeep tyre marks on the road which goes to show that the workman/petitioner in W.P.No.30816 was rash and negligent and a finding rendered by the domestic enquiry was also



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confirmed by the Labour Court and death of 8 persons and the jeep was completely damaged and hence, the charge with which, the petitioner/driver was levelled, has been proved only on the point of back wages and for continuity of service, the Labour Court has rejected the claim.

11. After perusing the orders passed by the Labour Court and also the materials placed before this Court as discussed *supra* and also the reasoning assigned by the Labour Court, I find that the award passed by the Labour Court, whereby, the second respondent is directed to reinstate in service as a fresh entrant without back wages and continuity of service, is justified and it does not require any interference by this Court.

12. The second respondent died on 14.10.2020 and the legal heirs were on brought on record and cause title was already amended and hence, I am inclined to dismiss both the writ petitions filed by the Transport Corporation as well as the Driver and the legal heirs, who are now the petitioners herein, are entitled to the service benefits from the date of the award till the date of his retirement or the date of death whichever is earlier.



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13. With these observations, these writ petitions stand disposed of and the Transport Corporation, who is the petitioner in W.P.No.12725 of 2006 is directed to settle the amount to the legal heirs within a period of eight (8) weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

17.10.2023

Index: Yes / No
Internet: Yes / No
NCC: Yes/No
sjj

RMT. TEEKAA RAMAN, J.
sjj

To

The Presiding Officer,
Principle Labour Court,
Chennai.

Pre-Delivery Order made in
W.P.Nos.30816 of 2005 and 12725 of 2006



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