



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P Nos.7535 and 16750 of 2022
and WMP No.16064 of 2023

W.P.No.7535 of 2022

G.Srinivasan

Petitioner

vs.

1. Tamil Nadu State Transport
Corporation (Villupuram) Ltd.
Rep. by the Managing Director
3/137 Salamedu
Valudhareddy Post
Villupuram-605 602.

2. Tamil Nadu State Transport
Corporation (Villupuram) Ltd.
Rep. by the General Manager
Kancheepuram Regional Office
Karapettai
Chennai Bangaluru High Way
Kancheepuram-631 552.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India for
issuance of a Writ of Mandamus, directing the respondents to reinstate the
petitioner into service as Driver with continuity of service and to pay back



wages as ordered by the Hon'ble Labour Court, Kancheepuram in I.D. No.526/2018 dated 28.02.2020 together with interest at the rate of 12% per annum.

For Petitioner : Mr.N.Ishak

For Respondents : Mr.T.Chandrasekaran
for R2

No appearance for R1

W.P.No.16750 of 2022

The General Manager
Tamil Nadu State Transport
Corporation (Villupuram) Limited
Kancheepuram Division
Kancheepuram District 631 552.

..Petitioner

.Vs.

G.Srinivasan
Driver No. 42234)
No.5, Kavimani 2nd cross Street
Periyar Nagar
Pallikkarana
Chennai 600 100.

..Respondent

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, call for the records relating to the order dated 28.02.2020 made in I.D. No. 526 of 2018 passed by the Presiding Officer Labour Court Kancheepuram and quash the same.



WEB COPY



3

For Petitioner : Mr.T.Chandrasekaran

For Respondents : Mr.N.Ishak

COMMON ORDER

These writ petitions have been filed by the Management and the Workman. The Management viz., the Tamil Nadu State Transport Corporation has questioned the award passed by the Labour Court, Kancheepuram in I.D.No.526 of 2018 dated 28.02.2020, directing the management to reinstate the workman with continuity of service and back wages. The workman has filed W.P.No.7535 of 2022, for enforcing the order passed by the Labour Court and for a direction to the Transport Corporation to reinstate with continuity of service and back wages.

2.For the sake of convenience, the petitioner in W.P.No.16750 of 2022 will be addressed as the petitioner/Management and the petitioner in W.P.No.7535 of 2022 will be addressed as the respondent/workman.

3.The brief facts of the case are stated hereunder:

3.1. The respondent was employed as a driver under the petitioner

Corporation. On 07.09.2016, when he was driving the bus from Pondicherry



WEB COPY

towards Chennai, the bus hit a two wheeler and as a result, the pillion rider succumbed to death due to the injuries sustained by him. The management issued a charge sheet to the workman on 05.12.2016 and a reply was given by the workman on 17.12.2016. Thereafter, a domestic enquiry was ordered and an enquiry report was also given by the enquiry officer.

3.2. The workman gave his reply for the show cause notice issued by the management after the receipt of the enquiry report and ultimately, the workman was dismissed from service by order dated 06.03.2017.

3.3. An Industrial dispute was raised and it was referred to Labour Court, Kancheepuram. The workman examined himself as WW-1 and exhibits W-1 to W-15 were marked on the side of the workman. No witnesses were examined on the side of the management and no documents were relied upon.

3.4. The Labour Court on considering the facts and circumstances of the case and after analyzing the evidence available on record, came to a conclusion that the termination order passed by the management was perverse and was unjustified and accordingly, the same was set aside and a direction



was given to the management to reinstate the workman with continuity of the service and back wages.

3.5. The management has filed this writ petition aggrieved by the award passed by the Labour Court and the Workman has filed the writ petition to enforce the award passed by the Labour Court.

4. Heard Mr.N.Ishak, learned counsel for the petitioner in W.P.No.7535 of 2022 and for R1 in W.P.No.16750 of 2022 and Mr.T.Chandrasekaran, learned counsel for the petitioner in W.P.No.16750 of 2022 and for R2 in W.P.No.7535 of 2022.

5. This Court has carefully considered the submissions made on either side and the materials available on record.

6. The specific charge that was framed as against the respondent/workman was that he had driven the bus in a rash and negligent manner and caused the accident and as a result, the pillion rider of a two wheeler died due to the injuries caused in the accident.



8. The management was not able to prove the negligence on the part of the workman even on the test of preponderance of probabilities. The learned counsel for the petitioner wanted this Court to take note of the previous conduct of the respondent/workman, wherein he was involved in such serious accidents even in the past. Unfortunately, the charge memo that was issued to the respondent/workman only focused on the incident that took place on 07.09.2016 and there was not even a charge against the respondent/workman for his past conduct. Hence, there was no occasion for the Labour Court to deal with the past conduct of the workman. This is more so since the management did not even care to examine any witness or mark any documents from their side. In view of the same, the past conduct of the respondent/workman will not have any bearing while deciding the case on hand.



9.This Court exercising its jurisdiction under Article 226 of the Constitution of India against an award passed by the Labour Court must be very slow in interfering with the same unless the award suffers from perversity. That apart, this Court does not find any illegality or infirmity in the Labour Court interfering with the punishment imposed against the respondent/workman. The Labour Court found that the punishment was unjustified and hence, the order of termination was set aside. There is absolutely no ground to interfere with the award passed by the Labour Court.

10.In the result, W.P.No.16750 of 2022, is dismissed and W.P.No.7535 of 2022 is allowed and there shall be a direction to the Transport Corporation to reinstate the petitioner into service with continuity of service and pay the back wages. This process shall be completed within a period of **eight weeks** from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

25.01.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
KP



WEB COPY



N. ANAND VENKATESH, J.

kp

To

1. The Managing Director
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.
3/137 Salamedu
Valudhareddy Post
Villupuram-605 602.
2. The General Manager
Tamil Nadu State Transport
Corporation (Villupuram) Ltd.
Kancheepuram Regional Office
Karapettai
Chennai Bangalaru High Way
Kancheepuram-631 552.

Common Order in
W.P Nos.7535 and 16750 of 2022

25.01.2023