



WEB COPY



W.P.No.12867 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.12867 of 2019
and W.M.P.No.13062 of 2019

The Management,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Vellore Zone, Vellore - 9.

... Petitioner

Vs.

1. G.Venkatesan

2. The Special Deputy Commissioner of Labour,
Chennai.

...

Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, calling for the records pertaining to the Orders, dated 27.07.2018 passed by the second Respondent in A.P.No.25 of 2014 and to quash the same.

For Petitioner : Ms.V.Pavithra
For Respondents : Mr.V.Ajoy Khose (for R1)

ORDER

The 1st respondent viz., G.Venkatesan, was working as a driver in the Writ Petitioner/Transport Corporation. On 21.02.2012 when he



W.P.No.12867 of 2019

WEB COPY

was driving a bus bearing Registration No.TN23 N 1829 in Route No.145/C, he hit a pedestrian, as a result of which, the pedestrian sustained injuries and died on the spot. A show cause notice was issued to the respondent and after conducting a domestic enquiry, he was dismissed from service on 20.01.2014. Thereafter, the Petitioner management filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 before the Special Joint Commissioner of Labour, Chennai in A.P.No.25/2014. The Special Joint Commissioner of Labour, Chennai vide her Orders dated 27.07.2018, dismissed the Approval Petition on the following grounds:

- i) The Management has not followed the principles of natural justice while conducting domestic enquiry;
- ii) There is a delay of 8 days in filing the approval petition under Section 33(2)(b) of the Industrial Disputes Act.

Aggrieved over the said Orders, the present Writ Petition is filed by the petitioner/Transport Corporation.



W.P.No.12867 of 2019

WEB COPY

2. Ms.V.Pavithra, learned counsel for the petitioner contended that the respondent /driver had driven the bus in a rash and negligent manner and hit a pedestrian, as a result of which, the pedestrian died instantaneously and the Departmental enquiry was conducted properly. According to her, the eyewitness to the occurrence need not be examined in the domestic enquiry. This aspect was not considered by the concerned Authority before rejecting the Approval Petition.

3. Per contra, Mr.V.Ajoy Khose, learned counsel appearing for the 1st respondent contended that the 2nd respondent after analysing the evidence adduced on both sides, passed a well reasoned order and that this Court need not interfere with the same by invoking the provisions of Article 226 of the Constitution of India.

4. It is seen from the records that the conductor of the bus was examined on the side of the Management and during the course of cross examination, he deposed that he saw a pedestrian suddenly crossing the road. According to him, though the driver of the bus applied brakes, the



W.P.No.12867 of 2019

WEB COPY

pedestrian fell down as he was affected by Hansen's disease (also known as leprosy) and sustained injuries. This aspect was not considered by the Management. On the contrary, the driver was dismissed from service. Moreover, as per the decision of the Hon'ble Supreme Court in ***Lal Ram Vrs. DCM chemical Works*** reported in ***AIR 1978 SC 1004***, the Management has not filed an approval Petition simultaneously. Hence, the Writ Petition stands dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

07.12.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

To

The Special Deputy Commissioner of Labour,
Chennai.



WEB COPY



W.P.No.12867 of 2019

R. HEMALATHA, J.

vum

W.P.No.12867 of 2019 and
W.M.P.No.13062 of 2019

07.12.2023