



WP.No.17264 of 2022

In the High Court of Judicature at Madras

Dated : 13.9.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.17264 of 2022
& WMP.No.16586 of 2022

The Managing Director,
Tamil Nadu State Transport
Corporation Ltd., Villupuram.
612001.

...Petitioner

Vs

M.Gandhi

...Respondent

Prayer: This petition is filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating the award made in I.D.No.27 of 2016 dated 31.8.2021 on the file of the Labour Court, Cuddalore and quash the same.

For Petitioner : Mr.T.Chandrasekaran

For Respondent : Mr.R.Muralidharan

ORDER

This is a petition filed by the petitioner seeking to quash the award dated 31.8.2021 in I.D.No.27 of 2016 on the file of the Labour Court, Cuddalore.

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2. The facts leading to filing of this case are as follows :

(i) The respondent joined in the services of the petitioner on 01.8.2001 as a driver. He habitually caused accidents very many times resulting in either injuries or death to several persons and causing damage to the buses concerned, which led to punishments of censure and stoppage of increment imposed by the petitioner. Further, various motor accidents original petitions are pending before courts.

(ii) On 11.5.2013, when he was plying a bus, due to rash and negligent driving, he caused an accident, resulting in death of two persons and damage to the concerned bus. After conducting the domestic inquiry, he was dismissed from service by order dated 21.7.2015. Aggrieved by that, the respondent initiated conciliation proceedings, which ended in failure. Thereafter, the industrial dispute came to be filed before the Labour Court, Cuddalore seeking to reinstate him into the services with continuity of service and back wages.

(iii) In that, the petitioner filed a counter. After contest, by the impugned award, the Labour Court, Cuddalore allowed the industrial



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dispute directing the petitioner to reinstate the respondent into the services with continuity of service and pay back wages from the date of dismissal till the date of reinstatement. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submits that the Labour Court passed the preliminary award with the findings that the domestic enquiry was not conducted in a fair and proper manner. In order to prove the charges against the respondent workman, M.W.1 to M.W.3 were examined on behalf of the management and Exs.M.1 to M.22 were marked before the Labour Court.

4. He further submits that though M.W.1 and M.W.2 were not the eye witnesses during the said accident, however, the only eye witness relied by the management for proving the negligence is M.W.3, during the cross examination he deposed that the said Gandhi / respondent dashed a mini lorry, which itself shows that there is negligence on the part of the workman. He further submits that apart from the said accident, the respondent



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committed various accidents due to which the petitioner corporation sustained huge loss. Though all those facts were established before the Labour Court, the Labour Court held that the domestic enquiry was not conducted in a fair and proper manner. Accordingly, he prayed to allow this writ petition.

5. Per contra the learned counsel for respondent / workman submits that the petitioner management availed the services of the respondent as Driver on 18.11.2000. Upon satisfaction of the petitioner corporation, the services of the respondent was confirmed as regular Driver. He further submits that due to the negligence of the mini lorry driver, the second respondent applied sudden brake which averted a major accident, for which, the petitioner corporation initiated disciplinary proceedings and passed the order of termination, which is highly disproportionate. Upon appreciating the oral and documentary evidences, the Labour Court has passed the Award directing the management to reinstate the respondent which cannot be interfered with.



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6. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent and perused the materials placed on record.

7. Admittedly, the petitioner Corporation engaged the respondent as casual driver on 18.11.2000. Subsequently, his services were confirmed as a regular driver. It is also seen that the respondent has rendered 18 years of service as a driver. It is the claim of the petitioner that due to the rash and negligent driving of the respondent, the respondent had hit a mini lorry bearing registration No.TN32N3811, due to which, the respondent was terminated from service. Aggrieved over the said termination, the respondent raised an industrial dispute before the Labour Court, the Labour Court vide award dated 31.08.2021 directed the petitioner management to reinstate the respondent in service with continuity of service along with back wages, which is under challenge in this writ petition.

8. The management has examined oral witnesses M.W.1 to M.W.3 and also marked exhibits M.1 to M.22, in which M.W.3, the conductor of the bus during his cross examination deposed that the respondent was in



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continuous service from 09.05.2013 till 11.05.2013 and the said accident happened at Ulundhurpet on 11.05.2013 at about 4.15 am while proceeding from Villupuram to Trichy. Hence it is clear from the deposition of M.W.3 that the respondent had driven the bus for a period of three days without any break covering upto 745 kilometres without any break and also that he has not made clear that the said accident happened due to the negligence of the respondent. Since, there is no element in the evidence of M.W.3 with regard to the rash and negligent driving of the respondent resulting in the alleged accident, it cannot be said by the petitioner corporation that the charges were proved against the respondent. It is also clear from the award that though M.W.1 stated that the copies relied by the management for proving the charges against the respondent were served on the respondent during the domestic enquiry, however, he admitted in his cross examination that the documents relied by the management in the domestic enquiry were not found to be received by the respondent, which was marked as Ex.M.11. Hence, it is clear that the domestic enquiry was not conducted in a fair and proper manner. Hence, the order passed by the Labour Court cannot be interfered with.



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9. With the above observations, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No

To

The Labour Court, Cuddalore.



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