



WEB COPY



W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

The Management,
Metropolitan Transport Corporation
(Chennai) Limited
Pallavan Illam, Anna Salai
Chennai 600 002

... Petitioner

Vs.

The General Secretary,
State Transport Corporation (CITU),
No.2, Pallavan Salai, Chennai 600 002

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari or any other appropriate writ, order or direction to call for the records pertaining to the order passed in I.D.No.455 of 2015 dated 13.12.2018 on the file of the Principal Labour Court, Chennai and to quash the same.

For Petitioner : Mr.M. Chidambaram

For Respondent : Mr. T. Karkkivelan



W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

ORDER

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The Management of Metropolitan Transport Corporation Limited has filed this petition challenging the orders dated 13.12.2018 in I.D. No.455 of 2015 on the file of the Principal Labour Court, Chennai. The respondent is the General Secretary of State Transport Corporation, CITU Labour Union on behalf of the affected driver P.Sivakumar.

2. The daily paid driver, P.Sivakumar was attached to the Mandaveli depot of the petitioner Corporation. On 26.09.2009, at about 20.05 hours, he was driving a bus bearing Registration No.MNH779 in Route No.41D/H and the bus ran over a pedestrian near Ambattur Police Station. The victim succumbed to the injuries. The driver was placed under suspension from 27.09.2009 to 22.03.2010. He was issued a charge memo on 18.10.2009 which he acknowledged on 20.10.2009. On receiving his explanation he was reinstated on 22.03.2010. He also attended the domestic enquiry on 30.04.2010 and at the conclusion of the domestic enquiry he was asked to show cause as to why the proposed punishment of stoppage of three increments for 3 years with cumulative effect not be awarded to him for which he had replied on 29.03.2011



W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

following which the punishment was awarded with effect from 22.04.2011. According to the petitioner Corporation, the appropriate and prescribed procedure was followed and sufficient opportunity was given to the delinquent employee before awarding the punishment, but the Labour Court, Chennai, concluded that the Enquiry Officer's findings was not sustainable and therefore set aside the punishment order itself. This petition is against this order of the Labour Court.

3. Mr.M. Chidambaram, learned counsel for the petitioner Corporation would contend that the death of a pedestrian was caused due to the rash and negligent driving by the driver P. Sivakumar who was a daily wage paid driver with the petitioner Corporation. This was not only confirmed in the FIR but also in the enquiry in which sufficient opportunity was afforded to the delinquent employee. The prescribed procedure for domestic enquiry was followed by the petitioner Corporation scrupulously. According to the counsel, the conclusion of the Labour Court that the enquiry report was perverse lacks conviction.

4. Per Contra, Mr. T. Karkkivelan, learned counsel for the respondent would contend that no eyewitness was examined by the



W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

Enquiry Officer. The witness who deposed before the Enquiry Officer

had not seen the accident and the conductor of the bus was not examined.

It was also contended that the statement of the delinquent employee ought to have been considered but instead was brushed aside. According to him, the Labour Court had rightly concluded that the Enquiry Officer's report was perverse.

5. The crux of the issue is whether the Enquiry Officer's report was perverse as claimed by the Labour Court. Even from the contents of the counter affidavit, it is seen that there was a domestic enquiry and adequate opportunity was afforded to the delinquent employee. The contention of the respondent Union that principles of natural justice was violated and that no time was granted to the employee to reply are all after thoughts. Ample time was given to him for his defence. The contents of FIR and the MCOP judgment clearly pointed to the rash and negligent driving of the driver and the punishment was as per Section 25(xxvii) of the certified Standing Orders of the petitioner Corporation. The punishment could have been less had the accident not resulted in death. Therefore I find merit in the prayer of the petitioner.



W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

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Consequently connected Writ Miscellaneous Petition is closed. The orders dated 13.12.2018 passed in I.D. No.455 of 2015 on the file of the Principal Labour Court, Chennai, is set aside.

10.11.2023

bga
Index : yes/no
Speaking /Non speaking Order

To

The General Secretary,
State Transport Corporation (CITU),
No.2, Pallavan Salai, Chennai 600 002



WEB COPY



W.P.No.16574 of 2019 & W.M.P. No.16205 of 2019

R.HEMALATHA, J.

bga

W.P.No.16574 of 2019 &
W.M.P. No.16205 of 2019

10.11.2023