



W.P.No.8469 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	21.02.2023
Pronounced on	15.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.8469 of 2016
and
W.M.P.No.7534 of 2016

The Management,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
12, Ramakrishna Road,
Salem -7
rep. by its General Manager.

... Petitioner

Vs.

- 1.The Presiding Officer,
Labour Court,
Salem.
- 2.The Secretary,
Tamil Nadu State Transport
Kazhagam Oazhiyargal Sangam,
No.39-E-1, Cinema Nagar,
Salem District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorari, calling for the records of the order passed by the first respondent in I.D.No.224/2010 dated 05.01.2015 and quash the same.



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For Petitioner : Mr.R.Babu

For Respondent-2 : Mr.Ayyathurai

ORDER

Heard Mr.R.Babu, learned counsel for the petitioner and Mr.S.Ayyadurai, learned counsel for the second respondent.

2. In connection with the fatal accident that occurred on 23.04.2004, the charges came to be framed against one Natesan, who was the driver of the bus that had caused the accident. In the domestic inquiry, charges against the driver Natesan was held to be 'proved' and by orders dated 16.10.2004 and 18.10.2005, punishment of stoppage of increments for a period of one year with cumulative effect, was imposed.

3. Challenging the punishment order, the second respondent / Transport Union had raised a dispute in I.D.No.224 of 2010 before the Labour Court, Salem. The award passed by the Labour Court dated 05.01.2015, setting aside the order of punishment, is put under challenge in the present Writ Petition.



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4. The learned counsel for the petitioner/Transport Corporation submitted that, owing to the rash and negligent act of the driver Natesan, an inquiry came to be conducted in a fair and proper manner, after extending due opportunity to the driver and the punishment is also proportionate to the proven charges and therefore, the award of the Labour Court, cannot be sustained.

5. Per contra, the learned counsel for the second respondent / Transport Union submitted that the evidence before the Inquiry Officer was not sufficient to hold the charges as 'proved' and therefore the punishment, cannot be sustained.

6.The Labour Court, while passing the award had taken into consideration of the evidence of M.W1., who was the Conductor at the time of the accident and who had deposed that, it was the cyclist, who was driving the cycle in a rash and negligent manner and not the driver of the bus. His statement to the effect that the driver had parked the bus on seeing the cyclist driving in a rash and negligent manner and thereafter, the cyclist had dashed on the bus and sustained head injuries. The Labour Court had also taken into consideration of the



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evidence of M.W.2, who is only a hearsay evidence and not a witness to the accident. This apart, neither any other eye witness to the accident nor the passengers inside the bus were examined by the Inquiry Officer and this aspect was also taken into consideration by the Labour Court. It is in this manner, the Labour Court had rightly come to the conclusion that there was no sufficient oral or documentary materials before the Inquiry Officer for holding the charges as 'proved'.

7. Above all, the order of acquittal by the Criminal Court, acquitting the driver from the charge of rash and negligent driving was also relied upon and ultimately, the Labour Court had come to the conclusion that the punishment has been illegally imposed on the driver. I do not find any infirmity in such findings.

8. When the domestic inquiry was held in a fair and proper manner and there were no sufficient material before the Inquiry Officer to hold the charge of rash and negligent driving against the driver Natesan as 'proved', the consequential inquiry report holding the charge as 'proved', as well as the order of punishment, cannot be sustained. In this background, there are no merits in the present Writ Petition.



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9. Accordingly, the Writ Petition stands dismissed. In view of the dismissal of the Writ Petition, the driver Natesan / Member of the Transport Union would be entitled for all the service and monetary benefits that may have been deprived to him in view of the order of punishment imposed on him. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

15.03.2023

Index : Yes
Order : Speaking
Neutral Citation : Yes

DP

Note: Issue order copy on 17.03.2023

To

1. The Presiding Officer,
Labour Court,
Salem.
2. The General Manager,
Tamil Nadu State Transport Corporation
(Salem) Ltd.,
12, Ramakrishna Road,
Salem -7.



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M.S.RAMESH,J.

DP

ORDER MADE IN

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