



W.P.No.24790 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.24790 of 2023

And

W.M.P.No.24211 of 2023

The Management of
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Kancheepuram Regional Office,
Ponnerikarai,
Chennai – Bangalore National Highway,
Karapettai Post,
Kancheepuram District – 631 552.

... Petitioner

Vs.

A.Seeyalan

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the award made in I.D.No.59 of 2021 dated 23.05.2023 on the file of the Labour Court, Kancheepuram and quash the same.

For Petitioner : Mr.T.Chandrasekaran
For Respondent : Mr.S.Sivakumar for R1

O R D E R

The petitioner has filed this writ petition seeking issuance of



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Writ of Certiorari to call for the records relating to the award made in I.D.No.59 of 2021 dated 23.05.2023 on the file of the Labour Court, Kancheepuram and to quash the same.

2.The case of the petitioner is that the respondent was working as Driver under the petitioner. On 27.07.2008 when the respondent was operating vehicle bearing Registration No.TN-21-N-1134 in route Chengelpet to Kancheepuram, dashed against a person who was standing along with other five persons on the left side of the road, due to which, the said person sustained injury and died in hospital on the same day. Thereafter, the petitioner issued charge memo dated 01.08.2008 to the respondent and conducted enquiry. Since the Enquiry Officer drawn proven report as against the respondent, the petitioner issued second show cause notice to the respondent on 21.06.2009 and thereafter dismissed him from service vide order dated 30.06.2010.

3.The further case of the petitioner is that thereafter the respondent raised industrial dispute in I.D.No.59 of 2021 before the Labour Court, Kancheepuram and the Labour Court passed award dated 23.05.2023 directing the petitioner to treat the period upto the



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date of superannuation as duty period with continuity of service and to give full backwages with all other attendant benefits to the respondent. Challenging the same, the petitioner has filed this writ petition.

4.The learned counsel appearing for the petitioner submitted that admittedly there was accident in which one person lost the life and the petitioner Corporation paid compensation, due to which there was huge loss to the petitioner Corporation. Further the Labour Court did not consider the enquiry report properly and came to the conclusion that enquiry was not conducted in a fair and proper manner which is perverse. Further, without any pleadings and averments with regard to the employment during the non employment period, the Labour Court mechanically awarded 100% backwages, which is not sustainable one. Further, during his entire service, the respondent was imposed with three punishments, out of which, two were for fatal accident. Without considering all these aspects, the Labour Court passed the impugned award, which is not sustainable one.

5.The learned counsel appearing for the respondent submitted



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that admittedly, there was an accident in which one person lost the life. However, the petitioner took dual stand before the Enquiry Officer and the Motor Accidents Claims Tribunal. Before the Enquiry Officer, the petitioner contended that due to the rash and negligent driving of the respondent the accident took place, whereas, before the Motor Accidents Claims Tribunal, the petitioner contended that due to the negligence on the part of the deceased person, the accident took place. Such contra stand is impermissible one. After considering all the factual aspects, the Labour Court set aside the dismissal order issued to the respondent and passed the impugned order, which warrants no interference.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts in the present case is not in dispute. Admittedly, the respondent was involved in a fatal accident. It is equally undisputed fact that during his entire service, the respondent was imposed with three punishments, out of which, two were for fatal accident. However, the petitioner took dual stand before the Enquiry Officer and the Motor Accidents Claims Tribunal. Before the Enquiry



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Officer, the petitioner contended that due to the rash and negligent driving of the respondent the accident took place, whereas, before the Motor Accidents Claims Tribunal, the petitioner contended that due to the negligence on the part of the deceased person, the accident took place. Such contra stand is impermissible one.

8.Considering the facts and circumstances of the case, the punishment of dismissal from service is highly dis-proportionate. All the factual aspects were elaborately considered by the Labour Court. However, the petitioner Corporation has paid compensation to the legal heirs of the deceased, due to which, there was huge loss to the petitioner Corporation. Further, there is no pleadings or averments with regard to the employment during the non employment period, however, the Labour Court has awarded 100% backwages.

9.In view of the above, this Court is inclined to modify the award dated 23.05.2023 passed in I.D.No.59 of 2021 by the Labour Court, Kancheepuram, as follows:

(i)The petitioner Corporation is directed to pay 25% backwages from the date of dismissal till the date of superannuation. The respondent is also entitled for continuity of service and all other



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attendant benefits.

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M.DHANDAPANI,J.

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10.The writ petition is disposed of with the above observation.
No costs. Consequently, the connected miscellaneous petition is closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Labour Court,
Kancheepuram.

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