



W.A. No.1853 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN
and
THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No.1853 of 2023 & C.M.P. No.16194 of 2023

The General Manager
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
Vellore Region
Vellore 632 009

Appellant

v

1 The Special Deputy Commissioner of Labour
Chennai
D.M.S. Compound
Chennai 600 006

2 D. Subramani

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 28.02.2022 passed in W.P. No.31429 of 2013.

For appellant	Mr. M. Aswin
For R1	Mr. T. Arunkumar
	Additional Government Pleader
For R2	Mrs.Ramapriya Gopalakrishnan

JUDGMENT

For the sake of clarity and brevity, the parties will be adverted to as per their rank in this writ appeal.



2

The facts leading to the institution of this writ appeal are as under:

2.1

The second respondent workman was working as a Driver in the appellant Transport Corporation. For his act of causing an accident resulting in the demise of two lady passengers and causing grievous injuries to 49 passengers, who were admitted as in-patients/out-patients in the hospitals at Vellore and Ambur, the second respondent workman was dismissed from service on 18.10.2010.

2.2

As there was an industrial dispute pending between the Management of the the appellant Transport Corporation and the Union, the appellant Transport Corporation filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947, before the first respondent authority.

2.3

The said petition was rejected by the first respondent authority on the grounds that the charges were not established and that there was no eyewitness to the accident. However, the first respondent authority rendered a finding *qua* payment of one month wages in terms of Section 33(2)(b), *ibid.* and receipt of the same in contemplation with Rule 64 of the Tamil Nadu Industrial Disputes Rules, 1958.

2.4

Thereagainst, the appellant Transport Corporation filed a writ petition being W.P. No.31429 of 2013, which was dismissed by a Single Bench, *vide* order dated 28.02.2022, confirming the order of the first respondent



authority, on the ground that the only witness who was examined during the domestic enquiry was the Time Keeper, could not have been an appropriate person to have witnessed the accident to substantiate that the second respondent workman had driven the bus in a rash and negligent manner. The Single Bench further held that the second respondent workman is entitled to all service and monetary benefits, including pension, from the date of his dismissal till the date of his superannuation, as if he was not dismissed from service at all. However, be it noted, the Single Bench did not advert to the factum of payment of one month wages and the receipt of the same by the second respondent workman.

2.5 Challenging the aforesaid order passed by the Single Bench, the Transport Corporation has preferred this writ appeal.

3 At the outset, it is to be pointed out that we are not in agreement with the ground taken by the Single Bench to dismiss the writ petition, *viz.*, that there was no eyewitness to the accident, in the light of the judgment of the Supreme Court in **J.D. Jain v The Management of State Bank of India [(1982) 1 SCC 143]**.

4 However, the finding of the first respondent authority that even though there is a delay of 13 days in despatching the dismissal order and the cheque, it could be treated as a part of the same transaction, cannot be countenanced. A reading of Rule 64 of the Tamil Nadu Industrial Disputes Rules,



W.A. No.1853 of 2023

1958, would make it clear that the dismissal order will have to be despatched simultaneously. In this context, it would be apposite to advert to a Coordinate Bench judgment of this Court in **V.Palani v The T.N.S.T.C. and another (W.A. No.32 of 2022 decided on 23.12.2022)** in which, one of us (SVNJ) was a member. On that score and on the ground that the appellant Transport Corporation has not complied with the mandatory requirement as stipulated in the judgment of the Supreme Court in **Lalla Ram v Management of D.C.M. Chemical Works Ltd. [AIR 1978 SC 1004]**, we confirm the order of the first respondent authority in rejecting the approval petition, even though the finding is in violation of Rule 64(2) of the Tamil Nadu Industrial Disputes Rules and that has not been dealt with correctly by the first respondent authority.

5 Further, as the second respondent workman has attained the age of superannuation, the appellant Transport Corporation is expected to implement the order passed by the Single Bench within a period of four months from the date of receipt of a copy of this judgment by extending him all the benefits, in the light of the judgment of the Supreme Court in **Tamil Nadu State Transport Corporation v Neethivilangan, Kumbakonam [(2001) 9 SCC 99]**.

This writ appeal stands dismissed with the above observation. No costs. Connected C.M.P. stands closed.

(S.V.N., J.) (K.R.S., J.)
24.07.2023



W.A. No.1853 of 2023

WEB COPY

To
The Special Deputy Commissioner of labour
Chennai
D.M.S. Compound
Chennai 600 006



WEB COPY



W.A. No.1853 of 2023

S. VAIDYANATHAN, J.
and
K. RAJASEKAR, J.

cad

W.A. No.1853 of 2023

24.07.2023