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WP.No.20881 of 2017

In the High Court of Judicature at Madras

Dated : 10.8.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.20881 of 2017
& WMP.Nos.21745 of 2017 &
7841 & 7842 of 2018

The Management, Tamil Nadu
State Transport Corporation
(Coimbatore) Ltd.,
Chennimalai Road, Erode-1.

...Petitioner

Vs

1.The Presiding Officer,
Labour Court, Salem.

2.P.Raghavan

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the first respondent - Labour Court, Salem made in I.D.No.8 of 2012 dated 09.3.2015 consequently quash the same.

For Petitioner : Mr.Murali Vinoth

For Respondent-2 : Mr.K.V.Shanmuganathan



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ORDER

This is a petition filed by the petitioner seeking to quash the award dated 09.3.2015 in I.D.No.8 of 2012 on the file of the first respondent.

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

(i) The services of the second respondent were availed by the petitioner as a reserve driver. On 01.4.2009, while he was riding a vehicle in Kangeyam to Kodumudi route, when the bus was crossing Othakadai, the vehicle was driven by the second respondent in a rash and negligent manner, resulting in the death of a pedestrian. Thereafter, the petitioner stopped engaging the petitioner.

(ii) Therefore, the second respondent raised an industrial dispute before the first respondent. Ultimately, after contest, the impugned award was passed by the first respondent thereby directing reinstatement of the second respondent with continuity of service, 30% back wages and all other attendant benefits. Challenging the same, the petitioner is before this Court.



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3. At the time of admission on 04.8.2017, in WMP.No.21745 of 2017, this Court granted an order of interim stay subject to the condition that the petitioner should deposit 50% of the back wages within a period of four weeks.

4. Thereafter, the second respondent filed two miscellaneous petitions namely WMP.Nos.7841 and 7842 of 2018 seeking (i) to vacate the stay granted on 04.8.2017 in WMP.No.21745 of 2017; and (ii) to direct the petitioner to pay the second respondent the last drawn wages and other attendant benefits as contemplated under Section 17B of the Industrial Disputes Act, 1947.

5. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent.

6. The learned counsel for the petitioner submits that the second respondent is only a reserve driver of the petitioner corporation and he



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committed a fatal accident prior to his regularization. Though all those facts were clearly established before the first respondent, the first respondent mechanically passed the impugned Award with a direction to the petitioner corporation to reinstate the second respondent in service with continuity of service, 30% backwages and all other attendant benefits which is *per se* unsustainable.

7. The learned counsel for the second respondent submits that the second respondent was appointed as driver in the year 2009. However, he was orally terminated in the year 2011. Though the second respondent rendered continuous service from the year 2009 till 2011 and completed 480 days in two calendar years without any default, he was not regularised in service. Therefore, the impugned order passed by the first respondent rejecting the petitioner's claim does not suffer any illegality. He further submits that without conducting any enquiry, the petitioner orally terminated the second respondent from service on the sole ground that the said accident was purely based on the negligence on the part of the second respondent. Upon verifying the oral and documentary evidences the first



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respondent has rightly passed the impugned Award, which cannot be interfered with.

8. Admittedly the second respondent was orally terminated from the petitioner corporation on the ground that he committed fatal accident. However, it is the contention of the petitioner that the Labour Court did not consider the fact that the second respondent has committed fatal accident before his regularisation. In order to prevent fatal accidents in future, this Court is not inclined to reinstate the second respondent in service. Therefore, the award dated 09.03.2015 passed by the first respondent is modified as hereunder:

(i) The petitioner management is directed to pay a sum of Rs.2,50,000/- as compensation excluding all other benefits and after deducting the amount, if any, paid by the petitioner within a period of four (4) weeks from the date of receipt of a copy of this order.

(ii) The respondent workman is permitted to withdraw the amount already deposited by the petitioner management with accrued interest.



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9. With the above directions and observation, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes (or) No

Neutral Citation : Yes (or) No

Speaking Order : Yes (or) No



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To

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