



WEB COPY



W.P. No. 14965 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No.14965 of 2017
and W.M.P. No.16205 of 2017**

The Management
Tamilnadu State Transport Corporation (Salem) Ltd.
No.12, Ramakrishna Road
Salem – 636 007
Rep. by its General Manager

... Petitioner

-VS-

- 1.The Secretary
TNSTC Employees Union
39, E-I/Cinema Nagar
CITU Office
Salem-9.
- 2.The Presiding Officer
Labour Court
Salem.
- 3.The State of Tamilnadu
Rep. by its Secretary
Labour and Employment Department
Fort St. George
Chennai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the third respondent passed in G.O.Ms.No.194 (D) Labour and Employment dated 06.05.2013 and the award passed by the second respondent made in I.D.No.69 of 2013 dated 27.10.2015 and to quash the same as illegal.



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For Petitioners : Mr.R.Babu
For Respondents : Mr.Elumalai (R1)
Mr.M.S.Prem Kumar, GA (R2)

ORDER

The writ petition has been filed seeking to quash the order passed by the third respondent in G.O.Ms.No.194 (D) Labour and Employment dated 06.05.2013 and the award passed by the second respondent in I.D.No.69 of 2013 dated 27.10.2015.

2. It is the case of the petitioner Management that the workman had raised an industrial dispute before the Labour Officer, Salem under Section 2(k) of the ID Act and the same was taken on file. The Government referred the dispute under Section 10 of the ID Act to the Labour Court, Salem. The Labour Court enquired into the matter and passed an award holding that the demands of the trade union are sustainable. Challenging the said order, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner submitted that an industrial dispute was raised by the concerned workman after a delay of 21 years after the imposition of first punishment on him and he has not given any reasonable explanation for such a delay in raising his claim. Although, the provisions of the



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Limitation Act are not applicable to the proceedings under ID Act and the Court cannot import a period of limitation where statute does not prescribe the same.

Hence, the learned counsel seeks to quash the impugned order and allow the writ petition.

4. The learned counsel for the first respondent submitted that admittedly, the respondent workman had driven a bus belong to the Corporation on 04.03.2009. On that day, when the first respondent Union member was driving the bus, the conductor was not sitting in the seat available for him, he was standing on the foot-board. Because of his carelessness, the conductor fell down from the bus and lost his life. It is not due to the fault of the driver and no negligence has been established before the Labour Court. In the absence of any evidence, imposing punishment against the driver is not correct and the same is liable to be set aside.

5. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on records.

6. The facts of the case are not in dispute. Admittedly, the first respondent union member viz., Murugesan and the deceased person were employed as driver and conductor respectively in the petitioner management. It is an equally



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undisputed fact that while the said Murugesan was driving the bus, the deceased conductor was thrown away from the bus and lost his life.

7. According to the petitioner, the driver has not driven the bus in careful manner, for which, the conductor lost his life. The punishment imposed by the appellate authority is perfect in order. According to the first respondent union, the driver was driving the bus in a safe manner. The deceased conductor was travelling on the foot board. Because of his carelessness, he lost his life. There is no fault on behalf of the driver.

8. A perusal of the award passed by the Labour Court, shows that the accident had taken place at 7.45 P.M., the bus was travelling from Chidambaram to Salem. It is an undisputed fact that the bus was driving in a road filled with potholes. It is alleged that at that time, the conductor of the bus, who was travelling on the foot-board, fell off the bus and died. When the bus is driven in a road which is in a bad condition, filled with potholes, the driver of the bus ought to have shown extreme caution and carefulness. The Conductor cannot be blamed for travelling on the foot board at the relevant point of time. He might have travel to caution the driver about the condition of the road. It is the bounden duty of the driver to have shown extreme carefulness while driving



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down such a bad road. Initially, the workman was awarded by stoppage of increment for two year. On appeal filed by the workmen union, the Labour Officer has reduced the punishment from two years to one year. This Court does not find any reason to hold that the reduction of stoppage of increment for one year requires a re-look. The order passed by the appellate authority is just and proper. The Labour Court ought not to have interfere with the same and passed the impugned order.

9. For the reasons mentioned above, the award passed by the Labour Court is set aside and the writ petition is allowed. The punishment imposed by the appellate authority is restored. This Court is not inclined to interfere with the other issue i.e. Pay anomaly referred to by the Labour Court. Consequently, connected miscellaneous petition is closed. No costs.

02.08.2023

Rli

Index: Yes/No

NCS : Yes/No

To

M.DHANDAPANI, J.

Rli



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Labour Court
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