



W.P.No.34887 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.34887 of 2019 and
W.M.P.Nos.35654 & 35657 of 2019

The Management,
Tamil Nadu State Transport
Corporation (Kumbakonam) Limited,
Represented by its General Manager,
No.27, New Railway Station Road,
Kumbakonam - 612 001.

... Petitioner

Vs.

1. P.Ramaiyan
2. The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai,
Chennai - 6.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of a Writ of Certiorarified Mandamus, to call for records pertaining to the Orders, dated 07.06.2016 passed by the 2nd respondent in Approval Petition No.44 of 2010, quash the same and consequently direct the 2nd respondent to approve the order of the petitioner, dated 21.05.2010, dismissing the 1st respondent from service.



W.P.No.34887 of 2019

For Petitioner : Mr.M.Murali Vinodh
For Respondents : Ms.V.Porkodi for R1
Ms.P.Vijayadevi,
Government Advocate for R2

ORDER

Challenging the Orders passed by the 2nd respondent / the Special Deputy Commissioner of Labour, DMS Campus, Anna Salai, Chennai - 6 in A.P.No.44 of 2010 dated 07.06.2016, the present Writ Petition is filed by the Writ Petitioner Management / Tamil Nadu State Transport Corporation (Kumbakonam) Limited.

2. The 1st respondent was working as a driver with the Writ petitioner Management. On 10.08.2008, the 1st respondent drove a bus bearing Registration No.TN45 N 2128 in a rash and negligent manner, as a result of which, a lady who was standing near the front exit gate of the bus, fell down and died on the spot. Hence, the 1st respondent was suspended from service and thereafter a departmental enquiry was conducted in which the enquiry officer held that the charges against the 1st respondent are proved. Thereafter, a second show cause notice was



W.P.No.34887 of 2019

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issued to the 1st respondent and was dismissed from service with effect from 21.05.2010. Subsequently, the Management filed a petition under Section 33 (2)(b) of the Industrial Disputes Act before the 2nd respondent for approval of their action taken against the employee. The 2nd respondent vide her orders dated 07.06.2016, dismissed the approval petition on the ground that though the 1st respondent was acquitted by the Criminal Court, the same has not been taken into consideration and thus the domestic enquiry is not fair and proper. Aggrieved over the same, the present Writ Petition is filed.

3. Mr.M.Murali Vinodh, learned counsel for the petitioner Management contended that though the enquiry officer conducted an enquiry after giving reasonable opportunity to the employee and found the 1st respondent guilty of the charges framed against him, the 2nd respondent had erroneously dismissed the approval petition.

4. Per contra, Ms.V.Porkodi, learned counsel for the 1st respondent drew the attention of this Court to the enquiry officer's report



W.P.No.34887 of 2019

WEB COPY

wherein he has observed that, had the deceased held the handle of the bus tightly, she would not have fallen down. She would therefore contend that the entire responsibility cannot be fixed on the driver of the bus. The above contention of the counsel for the 1st respondent cannot be accepted for the simple reason that the driver of the bus, has to caution the passengers who are attempting to alight the bus.

5. Moreover, merely because the 1st respondent was acquitted by the Criminal Court, the departmental enquiry need not be closed down. Hence, the Orders passed by the 2nd respondent, dated 07.06.2016 in A.P.No.44 of 2010, is set aside. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

12.12.2023

Index: Yes/No
Speaking/Non-Speaking order
vum



W.P.No.34887 of 2019

To
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1. The Recovery Officer,
Employees' Provident Fund Organisation,
Ministry of Labour & Employment,
Government of India, Regional Office,
P.B.No.588, Shree Complex,
'D' Block, No.18, Madurai Road,
Trichy - 620 008.
2. The Official Liquidator,
High Court, Madras
as the Liquidator of
M/s.Sree Uma Parameswari Mills Ltd.,
(in Liquidation) Corporate Bhavan, 2nd Floor,
No.29, Rajaji Salai,
Chennai - 600 001.

R. HEMALATHA, J.



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W.P.No.34887 of 2019

vum

W.P.No.34887 of 2019 and
W.M.P.Nos.35654 & 35657 of 2019

12.12.2023