



W.A. No.3591 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	05.06.2023
DELIVERED ON	02.08.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No.3591 of 2019

S. Jegadeesan

Appellant

v

1 The Secretary to Government
Transport Department
Tamil Nadu Transport Corporation Ltd.
Fort St. George
Chennai 600 009

2 The General Manager
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
Vellore Region
Rangapuram
Sathuvachari
Vellore – 9

3 The Presiding Officer
I Additional Labour Court
Chennai

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 08.07.2013 passed in W.P. No.25266 of 2008.

For appellant
For R1

Ms. S.S. Jhothivani
Mr. R.V. Dinesh Rajkumar
Addl. Government Pleader

For R2
R3

Mrs. S. Pavithra, Standing Counsel
Labour Court



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JUDGMENT

S. VAIDYANATHAN, J.

This intra Court appeal has been filed by the workman challenging the order dated 08.07.2013 passed by a Single Bench of this Court in W.P.No.25266 of 2008 filed by the Transport Corporation, in and by which, the award passed by the I Additional Labour Court, Chennai, in I.D. No.353 of 2002, ordering reinstatement without backwages, continuity of service and all other attendant benefits, has been set aside.

2 For the sake of better understanding, the parties will be referred to as per their rank in this intra Court appeal.

3 The succinct facts leading to the institution of this intra Court appeal are set out as under:

3.1 The appellant joined as a Driver on 18.02.1992 in Pattukkottai Azhagiri Transport Corporation, which was subsequently renamed as Tamil Nadu State Transport Corporation (Villupuram) Ltd.

3.2 Owing to an accident caused by him on 05.08.1994 due to his careless and negligent driving resulting in the death of a lady scooterist, he was



issued with a charge memo dated 01.10.1994. Since the explanation dated 18.10.1994 to the charge memo offered by him was not satisfactory, domestic enquiry was conducted in which the charge levelled against him was held to be proved.

3.3 Pursuant thereto, the Disciplinary Authority, viz., the Joint Managing Director of the Transport Corporation, imposed the punishment of dismissal from service on him, challenging which, in the industrial dispute preferred by him, viz., I.D. No.353 of 2002, the Labour Court, *vide* award dated 24.01.2008, ordered reinstatement in service sans backwages, continuity of service and all other attendant benefits.

3.4 Assailing the said award of the Labour Court, the Transport Corporation preferred the writ petition being W.P. No.25266 of 2008, which was allowed by the Single Bench, as stated in the opening paragraph, challenging the correctness of which, this intra Court appeal has been preferred by the workman.

4 Heard both sides and perused the materials available on record.

5 At the outset, it is to be noted that the accident caused by the appellant on 05.08.1994 is not the first one. On an earlier occasion, *i.e.* on



01.05.1994, the appellant had caused an accident in which the victim had died.

After a detailed enquiry, even though the punishment of dismissal from service was proposed, in order to provide him an opportunity to reform himself, he was imposed only the punishment of stoppage of one increment for a period of three years with cumulative effect. Even thereafter, the appellant did not seem to turn a new leaf. Even during the currency of the said punishment, due to his rash and negligent driving, he had caused yet another accident on 05.08.1994 (which led to dismissal order being passed against him), resulting in the demise of a lady scooterist. It is indeed true that the appellant had the benefit of acquittal in the criminal case. But, the appellant's acquittal in the criminal case cannot be a ground to hold that the charge in the domestic enquiry cannot be held to be proved. It is because, the yardstick applied in a criminal case is completely different from the one to be applied in departmental proceedings, for, in a criminal case, the act will have to be proved beyond reasonable doubt, whereas, in a domestic enquiry, mere preponderance of probability would suffice.

6 Given the appellant's past conduct, viz., causing of a fatal accident on 01.05.1994, coupled with another fatal accident caused by him on 05.08.1994, the Transport Corporation, presumably losing confidence in his performance and consequently, not inclined to run the risk of continuing with his services at the cost of public lives, dismissed him from service. However, the Labour Court



interfered with the punishment of dismissal from service inflicted on him, exercising powers under Section 11-A of the Industrial Disputes Act, 1947.

7 True it is that the powers of the Labour Court under Section 11-A, *ibid.*, are wide and it can re-appreciate the evidence and come to a different conclusion and it is also empowered to impose a reduced punishment, taking note of the gravity of charges. But, the fact that the second fatal accident caused by the appellant, had occurred in a span of three months from the date of the first accident, cannot be slightly brushed aside and lost sight of.

8 Though it was contended by the learned counsel for the appellant that the Enquiry Officer was a person qualified in law, whereas, the appellant was not one and he was not given any legal assistance, it is to be noted that the appellant cannot make such a claim, unless the Management representative is a legally qualified person.

9 In view of the aforesaid discussion, this Court is of the opinion that the Labour Court ought not to have interfered with the dismissal order passed by the Transport Corporation and ordered reinstatement without backwages, continuity of service and all other attendant benefits, as rightly held by the Single



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10 Before parting, it is worth mentioning that though this Court could have very well easily interfered with the award of the Labour Court on the short and solitary ground that the appellant had preferred the industrial dispute after a span of seven years, taking note of the fact that the appellant has no case, this Court proceeded to render a reasoned judgment going into the merits of the case.

In the upshot, this intra Court appeal is dismissed. Costs made easy.

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

02.08.2023

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