



W.A.(MD) No.1575 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.(MD) No.1575 of 2023
and
C.M.P.(MD)No.12206 of 2023

- 1.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Limited.,
Byepass Road, Madurai-16.
- 2.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Dindigul Region, Dindigul-4. ... Respondents/Appellants

-vs-

R.Ramakrishnan ... Petitioner/Respondent

PRAYER: Writ Appeal has been filed under Clause 15 of Letters Patent to set aside the order, dated 05.01.2023 made in W.P.(MD)No.8456 of 2019 on the file of this Court.

For Appellants	: Mr.S.C.Herold Singh
For Respondent	: Mr.S.Govindan



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JUDGMENT

[Judgment of the Court was made by D.BHARATHA CHAKRAVARTHY, J.]

The Managing Director and General Manager of the Tamil Nadu State Transport Corporation (Madurai) Limited have preferred this intra-court appeal feeling aggrieved by the order of the learned Single Judge dated 05.01.2023 in W.P.(MD)No.8456 of 2019.

2. In the said writ petition, the respondent/writ petitioner had prayed for a mandamus to revise and drop the punishment of increment cut for a period of 18 months with cumulative effect and for payment of wages for the suspension period from 20.12.2011 to 18.01.2012 in terms of Clause 61 of the 12(3) Settlement dated 30.09.1992.

3. The case of the writ petitioner is that the above punishment was imposed on him in view of the charge that he caused the death of a passenger by rash and negligent driving. However, when the writ petitioner was tried for the same offence, it was proved that the deceased was travelling in foot board and the offence not having been proved, he was acquitted by the learned District Munsif cum Judicial Magistrate, Andipatti in C.C.No.80 of 2012 by a



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judgment dated 10.08.2017. Once the writ petitioner is acquitted by the criminal Court, by virtue of Clause 61 of the 12(3) Settlement, dated 30.09.1992 entered into between the Management and the employees, the Management has to revisit the punishment and drop punishment. This was not done and hence, the writ petition.

4. The learned Single Judge considered the judgment passed in the criminal case and considered an earlier judgment of this Court in W.A.(MD)No. 587 of 2021 and considered the fact that the deceased was travelling in the foot board, exercised the discretion and modified the punishment from increment cut for a period of 18 months with cumulative effect to that of increment cut for a period of one year without cumulative effect. Aggrieved by the same, this appeal is filed.

5. *Mr.S.C.Herold Singh*, the learned counsel appearing on behalf of the appellant would submit that Clause 61 of the 12(3) Settlement would come into force if only the criminal Court has acquitted on merits. By relying upon the concluding paragraph 12 of the judgment of the learned District Munsif cum Judicial Magistrate, Andipatti, he would submit that the writ petitioner was acquitted only by giving him the benefit of doubt and therefore, he is not



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entitled for revisiting or revising the punishment already imposed on him and therefore, would pray that the order of the learned Single Judge calls for interference by this Court.

6. Per contra, *Mr.S.Govindan*, the learned counsel appearing on behalf of the respondent by taking this Court to the other parts of the judgment would contend that the writ petitioner is honourably acquitted.

7. We have considered the rival submissions made on either side and perused the material records of the case.

8. The question as to whether the writ petitioner was acquitted on mere benefit of doubt or on merits, should not be decided by reading the final paragraph of the judgment alone, but by reading the judgment as a whole. A perusal of the judgment of the criminal Court, it is clear that there was absolutely no evidence to prove the negligence on the part of the writ petitioner. The witnesses P.W.4, P.W.5 and P.W.6 have categorically stated that they were in middle of the bus and did not notice about the falling of the deceased, who was travelling in the foot board. Further, during the trial it transpired that the deceased was travelling in the foot board and that the bus



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was not running in a high speed as alleged but it is just started from the bus stop and there was also a speed breaker. Considering all the above, and finding that there is no evidence at all, the acquittal has been granted. Therefore, it can be seen that the writ petitioner is acquitted on merits so as to claim the benefit of re-visitation of punishment as per Clause 61 of the 12(3) Settlement entered into between the Management and the employees. In that view of the matter, when the learned Single Judge after taking this into account, have not even exonerated the respondent fully but had only reduced the punishment into one of increment cut without cumulative effect, we see no grounds to interfere in the matter.

9. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[S.S.S.R., J.] [D.B.C., J.]

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NCC : Yes / No
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