



W.P(MD)No.18112 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18112 of 2020

and

W.M.P.(MD)No.15138 of 2020

The Management through the General Manager,
Tamil Nadu State Transport Corporation,
Tirunelveli Ltd., Tirunelveli Region,
Vannarpetti, Tirunelveli.

... Petitioner

Vs.

The General Secretary,
Nellai Chidambaranar,
Kumari District,
State Transport Corporation Employees Union,
Reg. No.468/Tili,
4C, Empriyal Compund (Up Stars),
Vannarpetti, Tirunelveli.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records from the Labour Court, Tirunelveli relating to the impugned award passed by in in I.D.No.67 of 2016 dated 19.01.2017 and quash the same.

For Petitioner : Mr.K.Sathiya Singh,

For Respondent : Mr.K.Guhan



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ORDER

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Heard the learned counsel on either side.

2.The only question that calls for consideration is whether the impugned award passed by the Labour Court, Tirunelveli deserves to be set aside. One Suresh Subramanian was working as a Driver in the petitioner/corporation. He was driving the bus bearing Registration No.TN 72 N 1003 on 01.02.2009 from Tirunelveli to Madurai. When the bus was nearing Chinthamani in Madurai Ring Road at around 20.45 hours, the bus hit a pedestrian who was crossing the road and she died as a result. The stand of the management is that in the claim proceedings, it was made to pay a sum of Rs.3,70,000/- as compensation. Since the management was put to loss only on account of the Suresh Subramanian's negligence, disciplinary action was initiated against him. Suresh Subramanian was found guilty in domestic enquiry. The management imposed the punishment of stoppage of increment for two years with cumulative effect.

3.The workers union raised a industrial dispute and the same was taken on file by the Labour Court, Tirunelveli in I.D.No.67 of 2016. By the impugned award dated 19.01.2017, the punishment imposed by the



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management was set aside. The learned standing counsel would contend that considering the fatal nature of the accident and the fact the management was made to part with substantial sum of money towards compensation, the punishment imposed on the employee cannot be said to be harsh. He therefore, called upon this Court to interfere with the impugned award in the light of the various contentions set out in the affidavit filed in support of the writ petition.

4.I am not persuaded by the submissions of the learned standing counsel for the management. As rightly pointed out by the learned counsel for the union, even though a fatal accident had taken place and a criminal case was also registered, the investigation was closed as “action dropped”. The final report filed to that effect was also accepted by the jurisdictional Criminal Court. The learned counsel pointed out that Labour Court has made a pointed reference to this aspect. If really the employee had driven the vehicle in rash and negligence manner and caused the accident, certainly, he would have been prosecuted before the Criminal Court. The fact that the criminal prosecution did not even take off would indicate that the employee was not at fault.

5.Of course notwithstanding the decision of the Criminal Court, the



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employee can still be departmentally dealt with. The Labour Court had pointed out that even in the charge memo, the employee has not been charged with negligent or rash driving. The only charge made against the driver was that he did not apply the brake even after he saw the pedestrian crossing the road. The Labour Court after discussing this charge found it to be inherently improbable. The fact the there was no tyre mark on the road cannot be a ground to come to a conclusion that brake was not applied. The Labour Court also noted that the witness who was examined on the side of the management during enquiry was not competent to speak about the occurrence. In other words, the charge was not really established. When the Labour Court after a careful consideration of the materials on record had exonerated the employee, it is not for this Court to re-appreciate the factual matters. No case for interference is made out and the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.03.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 20.03.2023.



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G.R.SWAMINATHAN, J.

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