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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 13.06.2023**

**CORAM**

**THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

**W.P.(MD)No.25280 of 2019**  
**and**  
**W.M.P(MD)No.21877 of 2019**

V. Palaniappan

... Petitioner

**Vs.**

1. The Special Deputy Commissioner of Labour,  
Chennai.

2. The General Manager,  
Tamil Nadu State Transport  
Corporation (Kumbakonam) Limited,  
27, Railway Station New Road,  
Kumbakonam.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for issuance of a *Writ of Mandamus*, directing the 2<sup>nd</sup> respondent to settle all the petitioner's monetary benefits and retirement benefits payable to him as per the order, dated 03.10.2018 of the 1<sup>st</sup> respondent passed under Section 33(2)(b) of the Industrial Disputes Act, in Approval Application A.P.No.70 of 2013.



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For Petitioner : No appearance  
For R-1 : Mr.M.Lingadurai,  
Special Government Pleader  
For R-2 : Mr.D.Sivaraman  
Standing Counsel

**ORDER**

This writ petition is filed for *Writ of Mandamus*, seeking direction to the 2<sup>nd</sup> respondent to settle all the petitioner's monetary benefits and retirement benefits based on the order, dated 30.10.2018 of the 1<sup>st</sup> respondent under Section 33(2) (b) of the Industrial Disputes Act, in approval application in A.P.No.70 of 2013.

2. The 2<sup>nd</sup> respondent has initiated a disciplinary proceeding against the petitioner and submitted the same for approval before the appropriate authority and the approval application in A.P.No.70 of 2013 was rejected, vide order, dated 03.10.2018. Aggrieved over the same, the respondents have preferred a writ petition in W.P.(MD)No.3883 of 2020 before the Principal Bench of this



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Court. The learned Single Judge, vide order, dated 30.07.2021 allowed the said writ petition and set aside the order, dated 03.10.2018. The relevant portion of the aforesaid order is extracted hereunder:

.....

*“3. Admittedly, enquiry proceedings have been filed, but, eye witnesses have not been examined to establish the accident. It is not mandatory that, eye witness should be examined. Any person who has got knowledge about the accident is entitled to tender evidence and the finding of the Authority that, the domestic enquiry has been conducted against the principles of natural justice and that charges have not been established based on proper evidence, cannot be appreciated. Hence, the order dated 03.10.2018 passed by the 2<sup>nd</sup> respondent/Authority in Approval Petition No.70 of 2013, is set aside.”*

3. The petitioner ought to have challenged the aforesaid order, dated 30.07.2021 passed in W.P(MD)No.3883 of 2020. When the approval petition is allowed in the aforesaid writ petition, consequently the petitioner is not entitled to claim any monetary benefits. Therefore, this petition claiming monetary benefits cannot be entertained and the same is liable to be dismissed.



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4. Accordingly, this Writ Petition is dismissed. Liberty is granted to the petitioner to challenge the above order passed in W.P(MD)No.3883 of 2020, if so advised. No Costs. Consequently, connected petition is closed.

Index : Yes / No  
Internet : Yes  
ksa

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**S.SRIMATHY, J**

**ksa**

**Order made in  
W.P.(MD)No. 25280 of 2019**

**13.06.2023**