



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.25780 of 2010
and M.P.No.1 of 2010

The Management of
Tamilnadu State Transport Corporation
(Coimbatore) Ltd.,
Erode Region,
No.45, Chennimalai Road,
Erode - 1.
Rep. by its Managing Director ...

Petitioner

versus

1.The Presiding Officer,
Labour Court, Salem.

2.S.P.Mangeswaran ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records made in I.D.No.35 of 2006 dated 31.07.2009 on the file of the Labour Court, Salem and quash the same.

For Petitioner	:	Mr.M.Muralivinodh
For Respondent No.1	:	Court
For Respondent No.2	:	M/s.S.Girija



ORDER

The Writ Petition has been filed challenging the order of the learned Presiding Officer, Labour Court, Salem, made in I.D.No.35 of 2006 dated 31.07.2009.

2. Heard Mr.M.Muralivinodh, learned counsel for the petitioner and M/s.S.Girija, learned counsel for the second respondent and perused the materials available on record.

3. On an Industrial Dispute raised by the second respondent / workman that he has been dismissed from service illegally, the Labour Court passed an award in favour of the workman by setting aside the order of dismissal with a direction to the petitioner / Management to reinstate the second respondent with full backwages, continuity of service and all other attendant benefits.

4. The second respondent has been subjected to disciplinary action consequent to a charge memo issued to him while he was on duty and driving a bus bearing Registration No.TN-33-N-0815 from Oothukuli to Thiruppur Road at Vellayampalayam on 21.09.2013 and he dashed against



the motorcycle which was coming in front of the bus driven by the second respondent in a negligent manner and caused the death of the motorcycle rider and also caused grievous injuries to the pillion rider. At the conclusion of the domestic enquiry, a finding has been rendered that the charges were proved and consequently, the second respondent was imposed with the punishment of dismissal.

5. Mr.M.Muralivinodh, learned counsel for the petitioner submitted that the petitioner has filed this Writ Petition on the ground that the second respondent is not a permanent employee of the petitioner / Management and he is not entitled for reinstatement and reemploying him will cause public endangerment in view of his poor driving skills. The Labour Court has given a finding that the records, especially the evidence of the Management would show that the workman and the pillion rider are equally responsible for the accident and there is contributory negligence on the part of the pillion rider of the motorcycle as well. It is further observed that at the time of occurrence, a lorry came by overtaking the bus and during that process, the motorcycle came behind and dashed against the lorry and that was also the reason for causing the accident. As the materials available



before the learned Presiding Officer had shown the involvement of the third parties for causing the accident, the Court got convinced to set aside the order of dismissal and granted the relief of reinstatement.

6. The fact remains that the second respondent was not reinstated and the learned counsel for the petitioner submitted that the second respondent's whereabouts are also not known. In such circumstances, the award, which was passed on 31.07.2009 for reinstatement, did not achieve any purpose. The learned counsel for the second respondent also submitted that she did not receive any instructions from the second respondent. However, due to the disinterest shown by the second respondent in realising the relief granted by the Labour Court and that the award itself is incapable of execution in view of his non-availability to the knowledge of the petitioner, I feel it is appropriate to set aside the award and modify the same by awarding a lumpsum compensation.

7. Considering the three years of service rendered by the petitioner and the fact that he was drawing wages for nearly Rs.3,000/- per month at the time of his termination, I feel it is appropriate to award a lumpsum



compensation of Rs.1,00,000/- along with interest @ 6% from the date of dismissal till the date of payment.

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8. In the result, this Writ Petition is **allowed** and the award passed by the first respondent in I.D.No.35 of 2006 dated 31.07.2009 is set aside. The petitioner / Management is directed to award lumpsum amount of Rs.1,00,000/- [Rupees One Lakh only] along with interest @ 6% from the date of dismissal till the date of the realisation of the said amount to the second respondent. The above award required to be payable by the petitioner / Management within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

02.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

sri

To

The Presiding Officer,
Labour Court, Salem.

R.N.MANJULA, J.

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