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W.P No.33349 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2024

CORAM

THE HONOURABLE MR. JUSTICE **P.DHANABAL**

W.P.No.33349 of 2012
and MP.No.1 of 2012

The Management,
Tamilnadu State Transport Corporation Ltd,
Kumbakonam Limited,
Railway Station Road,
Kumbakonam.

.. Petitioner

Vs.

1.V.Tamilarasu

2.Joint Commissioner of Labour (Conciliation),
D.M.S. Compound,
Chennai – 06.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, pleased to pass a Writ of Certiorari, calling for the records of the 2nd respondent made in Approval Petition No.61 of 2004 dated 20.05.2011, and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.C.Senapathy

For Respondents : Mr.C.Prabakaran for R1
Mr.T.Chezhian, AGP for R2.



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ORDER

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This writ petition has been filed by the Petitioner Management challenging the order passed by the second respondent in Approval Petition No.61 of 2024 dated 20.05.2011.

2. According to the writ petitioner, the first respondent was appointed as a driver in the petitioner's Corporation and he was posted duty as a driver in the bus bearing Registration No.TN49 N 1167. On 08.05.2003, while the bus was traveling from Trichy to Velankanni, it dashed against the roadside near a tamarind tree due to the rash and negligent driving of the first respondent. As a result of which, three passengers including the conductor of the bus died on the spot, more than 18 passengers were injured, and the vehicle was also damaged to the tune of Rs.45,000/-. For the said misconduct of the petitioner, disciplinary proceedings were initiated by issuing a charge memo. After conducting enquiry, the enquiry officer filed his report dated 30.08.2003 holding that the charges against the first respondent were proved. Thereafter, the explanation was called for from the first respondent, and since the explanation was not satisfactory, the punishment of removal from service was awarded to him. Since the bonus disputes were in the midst of the



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dismissal, the petitioner's management filed an Approval Petition in A.P.No.61 of 2004 before the Commissioner of Labour, Chennai under Section 33(2)(b) of the Industrial Disputes Act, 1947. The second respondent refused to allow the petition and rejected the approval petition on the ground that the removal from service was against the natural justice. Now the said order has been challenged by the writ petitioner.

3. The learned counsel appearing for the petitioner would submit that the first respondent was entrusted with the duty of a driver for the bus bearing Registration No.TN49 N 1147. While so, on 08.05.2003, he caused accident due to his rash and negligent driving, due to which, three passengers including the conductor of the bus died on the spot and more than 18 passengers were injured and also caused damages to the bus to the tune of Rs.45,000/-. Subsequently, disciplinary proceedings were initiated against him, and an enquiry was conducted. According to the findings of the enquiry report, the charges were proved against the first respondent and after following all the formalities, the punishment of removal from service was awarded. Since the bonus dispute were in the midst of the dismissal, the petitioner Management filed the approval petition before the second respondent and the same was dismissed. The



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second respondent failed to consider that the enquiry was properly conducted and the same was also not disputed. The reason for the accident was due to the defects in the steering, which was not analyzed by the enquiry officer, therefore the second respondent rejected the approval petition. The second respondent has no authority to decide the negligence on the part of the petitioner as he exceeded his limits, therefore the order passed by the second respondent is liable to be set aside.

4. The learned counsel appearing for the first respondent would submit that the petitioner was appointed as a driver under the petitioner's corporation. While so, on 08.05.2003, when he was driving the bus bearing Registration No.TN49 N 1167 from Trichy to Velankanni, observing all the traffic rules, due to mechanical defects in the steering and in order to avoid a collision with the car, he turned the bus to the left side of the road, due to the tightness of the steering, the bus unfortunately dashed against the tamarind tree. Therefore, there is no any rash and negligent driving on the part of the first respondent. However, the disciplinary authority after enquiry found that the charges were proved. When an approval petition was filed by the petitioner, the



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second respondent correctly rejected the petition on the grounds that there was no negligence on the part of the first respondent and that the accident occurred due to the tightness of the steering, and there was no evidence to prove negligence on the part of the second respondent. Therefore, the order passed by the second respondent is in order. Moreover, the petitioner has been working for more than 12 years after the rejection of the approval petition without any grievances. Therefore he prayed to dismiss the writ petition.

5. This Court heard both sides and perused the materials available on record.

6. It is an admitted fact that the first respondent was driving the bus on the date of the accident i.e., on 08.05.2003, and according to the petitioner management, the accident took place due to negligence on the part of the driver of the bus. According to the first respondent, there was no negligence on his part, and in order to avoid colliding with the car, he turned the vehicle to the left side, due to a mechanical fault i.e, tightness in the steering, the bus hit against the tamarind tree. The enquiry officer conducted the enquiry and rendered his findings, stating that the charges



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were proved. Thereafter, the disciplinary authority imposed the punishment of removal from service. When the matter was sent for approval before the second respondent, it was dismissed by the second respondent, stating that the enquiry officer did not consider that since the car was coming from the opposite direction and in order to avoid accident, he turned the bus to the left side and thereafter due to tightness of the steering, the bus dashed against the tamarind tree. Further, there is no evidence to prove that the driver of the bus drove the bus in a rash and negligent manner.

7. Moreover, it is seen from the records that prior to the accident, there were endorsements made by other drivers regarding the tightness of the steering, and there is no evidence to show that the steering was repaired. Therefore, the said aspects were not considered by the enquiry authority, and thereby, negligence on the part of the driver has not been proved. There is no explanation on the side of the writ petitioner as to whether the steering was repaired prior to the accident of the bus, especially when so many endorsements were made by the drivers regarding the tightness of the steering. There are no findings by the enquiry officer in respect of the above said steering, therefore, the



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second respondent rightly refused to accept the approval petition and there is no irregularity or illegality of the order passed by the second respondent. Moreover, after the rejection of the approval petition for more than 12 years, the first respondent has been working in the same petitioner's corporation without any adverse remarks, and he has rendered unblemished service, therefore, at this stage it is not appropriate to allow this writ petition. In view of the above said discussions, this writ petition has no merits and deserves to be dismissed.

8. In the result, this writ petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

20.12.2024

Index: Yes/No.
Internet/Yes/No
drl

P.DHANABAL.J.

drl

To



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D.M.S. Compound,
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