



W.A.No.1529 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

**THE HON'BLE MRS. JUSTICE J.NISHA BANU
AND
THE HON'BLE MR. JUSTICE P.DHANABAL**

**W.A.No.1529 of 2022
and
C.M.P.No.10031 of 2022**

The Management,
Tamil Nadu State Express Transport Corporation
(Kumbakonam) Ltd.,
Periyamilaguparai,
Trichirappalli - 620 001.
rep. by its General Manager

... Appellant

Vs.

1. S.Anbalagan,
S/o Sengodan
Driver Staff No.3655,
Peramoor, Ayyampalayam Pot,
Musin Taluk,
Trichy District.

2. The Joint Commissioner of
Labour (Conciliation),
DMS Compound,
Chennai.

...Respondents



W.A.No.1529 of 2022

WEB COPY

Writ Appeal filed under Clause 15 of the Letters patent against the order passed by this Court in W.P.No.11613 of 2015 dated 30.07.2021.

For Appellant : Mr.Murali Vinodh
Standing Counsel for
Transport Corporation

For Respondents : No appearance for R1
Mr.V.Ravi,
Special Government Pleader for R2

J U D G M E N T

(The judgment of the Court was delivered by J.Nisha Banu,J.)

This Writ Appeal has been filed challenging the order passed by the learned Single Judge made in W.P.No.11613 of 2015 dated 30.07.2021.

2. The case of the appellant is that the 1st respondent was working as a driver in Trichy Branch of the appellant Corporation. On 05.03.2003, while the 1st respondent was working in the Trichy -Salem route in the bus bearing Regn.No.45-N-1455, he caused an accident by dashing against a TVS-50 motor cycle and the rider of TVS 50 sustained grievous injury and died on 06.03.2003. Charges were framed against the 1st respondent and an enquiry was conducted and based on the enquiry



W.A.No.1529 of 2022

report, he was dismissed from service. The approval petition filed by the Management before the 2nd respondent was rejected. The writ petition filed against the rejection of the approval petition was also dismissed by the learned single Judge. Hence, the present appeal.

3. Learned counsel for the appellant would submit that the domestic enquiry was conducted in a fair and proper manner following the procedure of principles of natural justice and only thereafter, the 1st respondent was dismissed from service. The 1st respondent was also paid one month wages immediately, prior to his dismissal. The requirement of provisions under section 33(2)(b) of the Industrial Disputes Act was duly satisfied by the appellant/employer. However, the 2nd respondent, without considering the above aspects had rejected the approval petition and the learned single Judge also concurred with the findings of the 2nd respondent and dismissed the writ petition.

4. Learned Special Government Pleader appearing for the 2nd respondent would state that only after thorough enquiry, the 2nd respondent has rejected the approval petition on the ground that there was contradictory stand taken by the Management before the Motor Accident Claims Tribunal and in the departmental proceedings and that



W.A.No.1529 of 2022

the dismissal of the 1st respondent amounts to unfair labour practice. The learned single Judge has rightly dismissed the writ petition and the same needs no interference.

5. Heard the learned counsel for the appellant and the learned Special Government Pleader appearing for the 2nd respondent. Though notice was served on the 1st respondent, there is no representation for the 1st respondent.

6. On perusal of the records, it is seen that the 2nd respondent had rejected the approval petition on two grounds, one is that there was no eye witness for the accident and the other is that the Management had taken two different stand before the Motor Accident Claims Tribunal and in the domestic enquiry.

7. Insofar as the first ground is concerned, the learned single Judge has stated that the finding of the Authority/ 2nd respondent that the eye witness is mandatory, is bad in the eye of law. Citing the judgment of the Hon'ble Supreme Court reported in 1982 AIR 673 (*J.D.Jain vs. The management of State Bank of India*), the learned Single Judge has held that the hearsay evidence is an admissible evidence in the departmental enquiry being conducted against an employee.



W.A.No.1529 of 2022

WEB COPY

8. Insofar as the second ground for rejection of the approval petition is concerned, the applicant/Management witness, in the domestic enquiry has stated that the accident is fully attributable to the opposite party/1st respondent herein, but the said witness had deposed before the Principal District Judge, Karur, in the Motor Accident Claims Tribunal that the driver of the Transport Corporation is not at all responsible for the accident and the deceased/ TVS-50 driver was only at fault. Therefore, the 2nd respondent has observed that the statement of the applicant/Management witness is totally contradictory to one another and thus, doubting the credibility of the applicant/Management witness, the 2nd respondent dismissed the approval petition. The learned single Judge, concurring with the aforesaid findings of the 2nd respondent, dismissed the writ petition. We are of the opinion that the order passed by the learned single Judge does not warrant any interference.

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

(J.N.B,J.) (P.D.B., J.)

01.04.2024

Index : Yes / No

Internet : Yes

vsi



WEB COPY



W.A.No.1529 of 2022

To

The Joint Commissioner of
Labour (Conciliation),
DMS Compound,
Chennai.



WEB COPY



W.A.No.1529 of 2022

J. NISHA BANU, J.
and
P.DHANABAL,J.

vsi

W.A.No.1529 of 2022

01.04.2024