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W.P.No.22258 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE.N.MALA

W.P.No.22258 of 2021

and

WMP.NO.23466 of 2021

The Managing Director,
Metropolitan Transport Corporation,
Pallavan Illam,
Anna Salai,
Chennai – 600 002. ... Petitioner

Vs.

The Secretary,
Government Transport Employees Union,
Regn.No.73/MTS, Attached to CITU,
Pallavan Salai,
Kalaiaranga Valagam,
Chennai – 600 002. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the order passed in I.D.No.179 of 2018 dated 26.09.2019 on the file of the I Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.C.Gowthamaraj
Standing Counsel

For Respondent : Mr.S.T.Varadarajalu



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ORDER

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This Writ Petition is filed to call for the records pertaining to the order passed in I.D.No.179 of 2018 dated 26.09.2019 on the file of the I Additional Labour Court, Chennai and quash the same.

2.The respondent was employed as a Driver in the petitioner Corporation and on 27.08.2013, the respondent caused a fatal accident while driving the bus bearing Regn.No.IYI 1506 on route No.37G/H in Nungambakkam Market. The respondent was therefore suspended on 05.09.2013 and was issued with a charge sheet on 17.09.2013. The respondent did not give any reply to the charge sheet. A domestic enquiry was conducted and during the pendency of the domestic enquiry, the respondent was reinstated on 27.09.2013. The enquiry officer submitted his report finding that the charges against the respondent were proved. The respondent was issued with 2nd notice regarding the proposed punishment of dismissal to which he replied. Considering the reply given by the respondent, the proposed punishment of dismissal was modified to one of postponement of increment for three years with cumulative effect vide order dated 26.09.2019. The respondent thereafter raised a dispute in I.D.No.179 of



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3.Before the Labour Court, both the petitioner as well as the respondent adduced oral evidence but the respondent alone filed documentary evidences under Ex.W1 to Ex.W12. The Labour Court on the basis of the evidence on record found that the accident did not occur solely due to the negligence of the respondent and that the deceased also contributed to the accident by crossing the road, at a place where there was no pedestrian crossing. The Labour Court in view of its finding on negligence interfered with the punishment by modifying the same to postponement of one increment with cumulative effect. The Labour Court awarded backwages and further directed the petitioner Corporation to treat the suspension period of 22 days as on duty.

4.The learned counsel for the petitioner submitted that the Labour Court erred in interfering with the punishment imposed by the Corporation on the ground that there was contributory negligence on the part of the deceased. The learned counsel further submitted that the Labour Court failed to consider that the Corporation originally proposed to impose the punishment



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of dismissal from service but after receiving the explanation of the respondent, on humanitarian grounds the same was modified to postponement of three annual increments with cumulative effect. The learned counsel therefore submitted that the award of the Labour Court deserved to be set aside.

5.The learned counsel for the respondent on the other hand submitted that the Labour Court was justified in interfering with the quantum of punishment, as it rightly found that the deceased also contributory to the accident by crossing the road at a place where there was no pedestrian line. The learned counsel submitted that there was no perversity in the findings of the Labour Court and hence the award of the Labour Court did not call for any interference.

6.I have heard both the learned counsels and I have perused the materials placed on record.

7.In my view the Labour Court having found that the respondent could have averted the accident had he exercised caution and having also found that



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there was an element of negligence on the part of the respondent, erred in interfering with the quantum of punishment imposed by the Management.

The Labour Court further failed to note that the petitioner Corporation on humanitarian grounds modified the proposed punishment from dismissal to the lesser punishment of postponement of increment for three years with cumulative effect. I am, therefore of the view that the Labour Court misdirected itself in interfering with the punishment imposed by the petitioner Corporation. Hence the award of the Labour Court cannot be sustained and the same is set aside. On the issue of treating the suspension period of 22 days as on duty instead of leave, I find no reason to interfere with the same, as the said finding has been rendered based on the Standing Order 2(c).

8. Accordingly, the writ petition is allowed. The order dated 26.09.2019 passed by the I Additional Labour Court, Chennai in I.D.No.179 of 2018 is set aside. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition stands closed.

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Index : Yes / No

Internet : Yes / No

Speaking order/Non-speaking order



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To

- 1.The I Additional Labour Court,
Chennai.
- 2.The Secretary,
Government Transport Employees Union,
Regn.No.73/MTS, Attached to CITU,
Pallavan Salai,
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N.MALA, J.
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