



W.A.No.2562 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

CORAM

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

**W.A.No.2562 of 2023 and
CMP.No.21625 of 2023**

The Management
State Express Transport Corporation,
(Division II) Limited
Pallavan Salai,
Chennai 600 002.

... Appellant

Vs.

1.The Presiding Officer,
Principal Labour Court,
Chennai 104.

2.R.Sekar

...Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters patent to set aside the order dated 26.07.2022 passed by this Court in W.P.No.25106 of 2009.

For Appellant	: Mr.S.Sivasubramani
For 2 nd Respondent	: party in person



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J U D G M E N T

(Judgment of the Court was made by J.NISHA BANU,J.)

The Writ Appeal has been filed against the order made in W.P.No.25106 of 2009, wherein the order passed by the Labour Court, reinstating the 2nd respondent in service, has been confirmed.

2. The appellant is an undertaking of Government, operating long distance express buses and the 2nd respondent is an employee.

3. Facts required for consideration of this appeal are as follows:

3.1. The case of the appellant is that the 2nd respondent during his period of service, had involved in the accident by dashing the bus against the lady pedestrian and causing serious injuries to 11 passengers and minor injury to himself and apart from that caused extensive damage to the bus to the tune of Rs.25,000/-. After investigation, the charge sheet was given to the 2nd respondent on 28.07.1999 and a domestic enquiry was conducted. The 2nd respondent was imposed with a penalty of dismissal of service by order dated 26.05.2000. The 2nd respondent raised I.D.No.417 of 2014, wherein the 1st respondent Labour Court passed the



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award dated 29.10.2008, setting aside the order of dismissal and reinstated the 2nd respondent with full backwages, continuity of service and all other attendant benefits. Aggrieved by the said order of the Labour Court, the appellant has preferred Writ Petition in W.P.No.25106/2009. This Court had dismissed the said Writ Petition by order dated 26.07.2022. Challenging the said order, the present appeal is filed by the appellant Corporation.

4. The learned counsel appearing for the appellant submitted that the action taken against the 2nd respondent was taken considering the gravity of the charge and in the interest of the travelling public. However, the Labour Court as well as the learned Single Judge of this Court held that the finding of the enquiry officer is perverse and not based on the legal evidence. The said finding is not correct and the finding of the enquiry officer, dismissing the 2nd respondent from service, is valid.

5. The learned counsel appearing for the 2nd respondent submitted that at first the domestic enquiry was not conducted in fair and proper manner and not in accordance with the principles of natural justice. The



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2nd respondent also denied opportunity to prove his case. Therefore, the Labour Court as well as the learned Single Judge of this Court, after considering all the material aspects, has rightly come to a conclusion to reinstate the 2nd respondent in service with all benefits, which does not warrant any interference of this Court.

6. Heard both sides and perused the materials.

7. From the perusal of the records, the learned Judge after going into the entire facts of the case, held that even assuming there was an accident caused by the 2nd respondent, the issue to be considered is as to whether it was due to the rash and negligent driving of the 2nd respondent, however in this case no witnesses have been cross examined in that regard and the driver who preferred the complaint, has also not been cross examined. Therefore, it was held by the learned Judge that non-examination of the essential witnesses shows that the finding of the enquiry officer is not based on legal evidence and it is certainly perverse and thereby confirmed the order of the Labour Court, wherein reinstatement has been granted to the 2nd respondent with all attendant



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benefits and rightly reached a conclusion that the award passed by the Labour Court is correct. This Court also does not find any infirmity in the well reasoned order passed by the learned Judge and not inclined to interfere with the order made in the Writ Petition. Accordingly, this Writ Appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B,J.) (P.D.B., J.)
18.06.2024

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To
The Presiding Officer,
Principal Labour Court,
Chennai 104.



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and
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