



W.P. No. 22182 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2024

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THE HON'BLE MRS. JUSTICE N. MALA

W.P. No. 22182 of 2019

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W.M.P. No. 21454 of 2019

The Management,
Metropolitan Transport Corporation
(Chennai) Ltd.,
Pallavan Illam,
Chennai – 600 002.

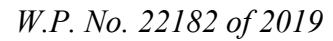
..Petitioner

Vs.

Thiru. Thiyagarajan
rep. by General Secretary,
Arasanga Pokkuvarathu
Oozhiyar Sangam,
2, Pallavan Salai,
KalaiarangaValagam,
Chennai – 600 002.

..Respondent

Prayer: Petition under Article 226 of the Constitution of India praying





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came under the left side rear wheel of the bus and died on the spot.

Consequent thereupon, alleging that the Conductor had committed misconduct under Sections 25(XIV) and 25(XLiii) of Certified Standing Orders by causing an accident owing to his negligence, he was suspended on 22.02.2003 and a charge memo was issued on 28.02.2003 calling upon him to submit his explanation. The Conductor submitted his explanation to the charge memo on 12.03.2003. Without prejudice to the disciplinary action, reinstatement was ordered. As the explanation was not found to be satisfactory, a domestic enquiry was ordered. The Enquiry Officer submitted his report on 21.09.2004 holding that the charges against the Conductor were proved. Consequent thereto, a second show cause notice dated 30.03.2005 proposing the punishment of dismissal from service was issued. The Conductor submitted his explanation to the second show cause notice and on considering the same, the proposed punishment of dismissal from service was modified to postponement of annual increment for 3 years with cumulative effect vide order dated 21.07.2005. Stating that the punishment imposed by the petitioner Corporation was arbitrary, the respondent raised an industrial dispute, which was registered as I.D. No.



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203/2017 by the III Additional Labour Court, Chennai. The Labour Court, on consideration of the entire materials before it, passed the impugned award modifying the punishment of postponement of annual increment for 3 years with cumulative effect into postponement of annual increment for 1 year with cumulative effect. Questioning the same, the petitioner Corporation is before this Court in this writ petition.

3. Learned counsel for the appellant submitted that the Labour Court having found that the misconduct was proved, ought not to have interfered with the punishment imposed by the petitioner Management.

4. On the other hand, learned counsel for the respondent would submit that the Labour Court was justified in interfering with the punishment imposed by the Management because it was not the negligence of the Conductor alone which resulted in the accident, but the deceased also contributed to the same. Learned counsel further submitted that in the event of this Court finding that the punishment imposed by the Management was reasonable, the punishment of postponement of annual increment for a



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period of 3 years may be imposed without cumulative effect.

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5. I have heard the learned counsel on either side and perused the materials placed on record.

6. I find that the Labour Court has given cogent and justifiable reasons for its conclusion that the misconduct against the respondent was proved and therefore, I find no perversity in the finding of the Labour Court. As far as the quantum of punishment is concerned, it is seen that the Labour Court has interfered with the punishment imposed by the Management only on the ground that the deceased was also negligent and contributed to the accident by trying to board a moving bus. In my view, when the Labour Court found that the misconduct of the respondent was established, it should not have interfered with the punishment imposed. When the petitioner Corporation itself had reduced the punishment from one of dismissal to postponement of annual increment for a period of 3 years with cumulative effect, in pursuance of the explanation given by the respondent to the second show cause notice, I am of the view that the Labour Court ought not



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to have interfered with the punishment imposed more so, when the Labour

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N. MALA,J.

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Court had come to the conclusion that the negligence of the respondent had resulted in the death of the school boy.

6. For all the reasons stated above, the writ petition is allowed. No costs. Connected W.M.P. is closed.

08.02.2024

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To

The III Additional Labour Court,
Chennai.

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