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W.P.Nos.33044, 26669, 24646 and 24649 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/4/2024

C O R A M

**THE HONOURABLE Dr.JUSTICE D.NAGARJUN**

Writ Petition Nos.33044, 26669, 24646 and 24649 of 2022  
a n d

W.M.P.Nos.32452, 32453, 25725, 23608 and 23611 of 2022

**W.P.No.33044 of 2022**

The Management of  
Tamil Nadu State Transport Corporation  
(Villupuram) Limited  
Kancheepuram Region – III  
Kancheepuram. ... Petitioner

Vs

D. Ramu ... Respondent

**W.P.No.26669 of 2022**

1. The Management of  
Tamil Nadu State Transport Corporation  
(Villupuram) Limited  
Villupuram  
Villupuram District.

2. The General Manager



W.P.Nos.33044, 26669, 24646 and 24649 of 2022

Tamil Nadu State Transport Corporation  
(Villupuram) Limited

Kancheepuram Region – III  
Kancheepuram District

...

Petitioners

Vs

K. Nambirajan

...

Respondent

**Prayer in W.P.Nos.33044 and 26669 of 2022:** Petitions filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records relating to the Award made in I.D.Nos.26 and 27 of 2012 dated 22/7/2016 on the file of the I Additional Labour Court, Chennai and quash the same.

For petitioners

...

Mr.T.Chandrasekaran

For respondents

...

Mr.J.Muthukumar

\* \* \* \* \*

**W.P.Nos.24646 and 24649 of 2022**

D. Ramu

...

Petitioner in  
W.P.No.24646 of 2022

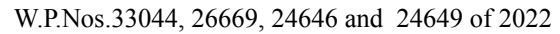
K. Nambirajan

...

Petitioner in  
W.P.No.24649 of 2022

Vs

1. The Management of



2. The General Manager  
Tamil Nadu State Transport Corporation  
(Villupuram) Limited  
Kancheepuram Region – III  
Kancheepuram District ... Respondents

**Prayer in W.P.Nos.24646 and 24649 of 2022:** Petitions filed under Article 226 of the Constitution of India for the issuance of a Writ of mandamus directing the respondents to implement the Award dated 22/7/2016 in I.D.Nos.26 and 27 of 2012 on the file of the Labour Court, Chennai and thereby reinstate the petitioners into services with pay, backwages and other attendant benefits.

For petitioners ... Mr.J.Muthukumaran

For respondents ... Mr.T.Chandrasekaran

## COMMON ORDER

W.P.Nos.33044 and 26669 of 2022 have been filed for the issuance of writs of certiorari, to quash the Award made in I.D.Nos.26 and 27 of 2012 dated 22/7/2016 on the file of the I Additional Labour Court, Chennai.

2. W.P.Nos.24646 and 24649 of 2022 have been filed for the issuance



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of writs of mandamus, to direct the respondents to implement the Award, dated 22/7/2016 made in I.D.Nos.26 and 27 of 2012 on the file of the Labour Court, Chennai and thereby, reinstate the petitioners into services with pay, backwages and other attendant benefits.

**3. Brief facts in W.P.No.33044 of 2022 are as follows:-**

(i). The respondent was appointed as Driver in the petitioner Corporation in the year 1998. On 21/12/1999, when the respondent was driving the bus, bearing Registration No.TN-31-N-0717 from Tirukazhukundram to Chengalpet in Route No.T-27 (Special), he caused an accident, on account of which, a person died. The respondent was orally dismissed from service with effect from 21/12/1999, without any prior notice.

(ii). A criminal case was filed against the respondent in C.C.No.56 of 2000, on the file of the learned District Munsiff-cum-Judicial Magistrate, Tirukazhukundram, for the offences punishable under Sections 279 and 304 A of the Indian Penal Code and after full fledged trial, on 24/8/2006, the respondent was found not guilty of the charges. After acquittal from



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the criminal case, the respondent has approached the petitioner Corporation with a request to reinstate him but that was not considered.

(iii). The respondent has raised Industrial Dispute in I.D.No.26 of 2012 seeking reinstatement and the same was dismissed. Aggrieved by the same, he has filed W.P.No.33341 of 2013 and the said writ petition was allowed by way of a judgment dated 5/7/2013, remanding I.D.No.26 of 2012 to the labour Court, for fresh enquiry. After enquiry, the labour Court has allowed I.D.No.26 of 2012 on 22/7/2016 setting aside the termination and directed the petitioner Corporation to reinstate the respondent with effect from 12/7/2011, as a new entrant with continuity of service and backwages from 12/7/2011. Aggrieved by the said award, W.P.No.33044 of 2022 is filed by the Management seeking to set aside the said award.

(iv). The respondent workman has filed a counter affidavit, wherein it is stated that the respondent has been acquitted with regard to the accident on 21/12/1999 and no appeal was also filed against the same. Hence the judicial pronouncement as such cannot be allowed to be nullified by the Management, dismissing the respondent orally without any enquiry.



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**4. Brief facts in W.P.No.26669 of 2022 are as follows:-**

(i). The respondent was appointed as a Driver in the petitioner Corporation in the year 1998. On 8/10/2003, when the respondent was driving the bus, bearing Registration No.TN-57-N-0717, caused an accident near Pochivakkam Junction, Kancheepuram to Chengalpattu road. The respondent was dismissed by the petitioner Corporation on 8/10/2003. A criminal case was filed against the respondent in C.C.No.301 of 2005 on the file of Tirukazhukundram Police Station, under Sections 279, 304 (A) of the Indian Penal Code and the learned Judicial Magistrate No.II, Kancheepuram, after full fledged trial, acquitted the respondent, vide judgment dated 24/8/2006. After acquittal from the criminal case, the respondent has approached the petitioner Corporation with a request to reinstate him but that was not considered.

(ii). The respondent has raised Industrial Dispute in I.D.No.27 of 2012 seeking reinstatement and the said I.D was dismissed. Aggrieved by the same, he has filed W.P.No.33340 of 2013 and the said writ petition was allowed by way of a judgment dated 5/7/2013, remanding I.D.No.27



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of 2012 to the labour Court, for fresh enquiry. After enquiry, the labour Court has allowed I.D.No.27 of 2012 on 22/7/2016 setting aside the termination and directed the petitioner Corporation to reinstate the respondent with effect from 12/7/2011 as a new entrant with continuity of service and backwages from the date onwards till the date of actual reinstatement. Aggrieved by the said award, W.P.No.26669 of 2022 is filed by the Management seeking to set aside the said award.

**5. Both W.P.Nos.24646 and 24649 of 2022 were filed by the workmen against the petitioner Corporation to implement the award made in I.D.Nos.26 and 27 of 2012 dated 22/7/2016 for reinstatement of the petitioners therein with backwages and attendant benefits. In view of the above, since W.P.Nos.33044 and 24646 of 2022 are in respect of award passed in I.D.No.26 of 2012 dated 22/7/2015, and W.P.Nos.26669 and 24649 of 2022 are in respect of I.D.No.27 of 2012 dated 22/7/2016, all the writ petitions are being disposed of by way of a common order.**

6. The respondent Management has reiterated the contents in counter affidavit filed by them in W.P.No.33044 of 2022.



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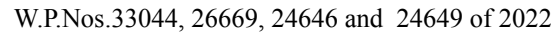
7. Heard Mr.T.Chandrasekaran, learned counsel for the Corporation and Mr.J.Muthukumaran, learned counsel for the workman.

8. On the allegations of misconduct of causing accident by the respondents workmen, the petitioner Corporation has summarily dismissed the respondents workmen from service. Admittedly, no domestic enquiry was conducted. Even if Corporation is of the opinion that the respondents workmen have committed accident which caused death of a person, on account of their rash and negligent driving, then Corporation should have issued a charge memo, Enquiry Officer could have been appointed and domestic enquiry should have been conducted by following the principles of natural justice and if at all finding goes against the respondents/ workmen, appropriate action should have been taken by imposing suitable punishment. However, without following principles of natural justice, the petitioner Corporation has orally dismissed the respondents/workmen. The trial Court while commenting on this for not following the principles of natural justice and dismissing the respondents/workmen summarily, has set aside the dismissal order in the impugned award passed on 22/7/2016.



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9. That apart, after the death of the victims in the accidents caused by the respondents workmen, the dependants of the deceased have filed petitions before the Tribunal, seeking compensation. In the said proceedings, the petitioner Corporation has taken a plea that the drivers of the vehicles i.e., respondents/workmen were not rash and negligent. Apart from that, criminal cases registered against the respondents/workmen were also ended in acquittal holding that the respondents/workmen were not rash and negligent. Though the petitioner Corporation has submitted that acquittal in criminal cases and that the defence taken in the petitions before the Tribunal cannot be the basis for conclusion that the respondents workmen have not committed misconduct and that the degree of evidence required in domestic enquiry is something different. It is true that the evidence i.e., required to prove the misconduct in a domestic enquiry is different than that of the evidence required in the criminal case and also before the Tribunal in a case filed for compensation by the dependants of the deceased. However, in case if the petitioner Corporation conducts any domestic enquiry or if the petitioner Corporation produces evidence to prove the misconduct before the labour Court, certainly submissions of the petitioner Corporation can



10. The labour Court, in its impugned award has elaborately discussed as to the respondents why the dismissal order is being set aside. As already observed, the main reason for coming to such a conclusion is that the petitioner Corporation has not produced any material that the respondents workmen were rash and negligent. Therefore, the submission of the petitioner Corporation, questioning the finding of the labour Court that the Corporation has not proved the mis conduct of the respondents/workmen cannot be interfered with. Once this is not accepted then, question to be considered is whether there is a justification in the impugned order of the labour Court for granting of backwages from 12/7/2011.

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explained by the respondents/workmen as to why they were silent for about 12 years for raising the Industrial Dispute. If at all they were aggrieved by the order of dismissal, they should have approached the labour Court immediately.

12. Therefore, on hearing both sides, this Court is of the opinion that backwages can be directed to be paid to the respondents/workmen from 22/7/2016 and not from 12/7/2011. During the course of hearing, the learned counsel for the petitioner Corporation as well as the learned counsel for the respondents/workmen have in fact agreed that backwages can be granted with effect from 22/7/2016.

13. In view of the discussion made above, this Court is inclined to pass the following order:-

**(i). Writ Petition Nos.33044 and 24646 of 2022 are disposed of,** modifying the impugned orders of the labour Court only in respect of payment of backwages, thereby, the petitioner Corporation is directed to pay the backwages to the respondents/workmen with effect from 22/7/2016 instead of 12/7/2011. Similarly, since there is no modification



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in respect of direction of reinstatement, the petitioner Corporation is also directed to reinstate the respondents/workmen, within a period of eight weeks from the date of receipt of a copy of this order.

(ii). W.P.Nos.26669 and 24649 of 2022 are disposed of, confirming the award passed by the labour Court by way of impugned order in I.D.No.27 of 2012 dated 12/7/2011 and the petitioner Corporation is directed to pay the said arrears and to reinstate the respondent workman within eight weeks from the date of receipt of a copy of this order.

No costs. Consequently, the connected Miscellaneous Petitions are closed.

16/4/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No

**Dr.D.NAGARJUN,J**

mvs.



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common order made in  
Writ Petition Nos.33044, 26669,  
24646 and 24649 of 2022

16/4/2024