



W.P.No.31164 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.31164 of 2018
and
W.M.P.No.36366 of 2018

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

...Petitioner

Vs.

K.Sankameswaran,
Rep. By the General Secretary,
State Transport Employees Union,
Regn., No.73/MDS (CITU)
No.2, Pallavan Salai,
Kalaingaranga Valagam,
Chennai – 600 002.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records pertaining to the order passed in I.D.No.174 of 2017 dated 24.08.2018 on the file of the Ist Additional Labour Court, Chennai and quash the same.

For petitioner : Mr.C.Gouthamaraj
Standing Counsel
For R1 : Mr.S.T.Varadharajalu

ORDER



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This writ petition is filed to quash the orders dated 24.08.2018 passed in I.D.No.174 of 2017 on the file of the Ist Additional Labour Court, Chennai.

2. The respondent herein was engaged as a Driver in the petitioner management and was attached to Anna Nagar Depot. On 21.07.2006, when he was driving the bus between CMBT to Anna Square, one pedestrian crossed the road and there was an accident, on account of which the pedestrian died. The respondent Driver was suspended from service between 22.07.2006 to 28.08.2006 and he was re instated into service.

3. On 20.09.2006, a charge memo was served on the respondent and he was asked to submit his explanations. Charge memo was given under Section 25 (XXVII) – rash and negligent and Section 25 (Xlii) revenue loss to the management of certified standing order. An explanation was submitted by the respondent and as the same was found not to be satisfactory, domestic enquiry was ordered. Domestic enquiry was conducted by following the principles of natural justice and the enquiry



officer submitted his report holding that the respondent has committed default and basing on the enquiry report the petitioner management imposed punishment of annual increment of the Driver was postponed for three years with cumulative effect and treat the absent period as leave.

4. The respondent has filed I.D.No.174 of 2017 and after fulfilled enquiry, the Labour Court has set aside the punishment awarded to the respondent with the following terms:

“The demand of the petitioner is justified. The order passed by the management dated 12.03.2009 awarding the punishment of postponing the increment of the Driver Sangameswaran for three years with cumulative effect is set aside. The respondent Corporation is directed to remit back the amount already withheld by it on implementation of the impugned order to the Driver of the bys Sangameswaran within 30 days from the date of publication of award failing which the respondent would be liable to pay interest @ 8% per annum on the above amount.”

5. Aggrieved by the same, the petitioner management has



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preferred this writ petition.

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6. It is submitted by the learned counsel for the petitioner Corporation that the respondent has not challenged the findings of the Labour Court which came to a conclusion that the respondent has committed misconduct and thereby, the issue before this Court is whether the punishment imposed is fair and proper. It is submitted by the learned counsel for the petitioner Corporation that the findings of the Labour Court in dismissing the I.D. is not proper and the facts are not properly appreciated.

7. The learned counsel for the respondent on the other hand submitted that the findings of the Labour Court are proper and after considering the entire materials on record has passed a reasonable order and the orders of the Labour Court cannot be interfered with and therefore, sought for dismissal of the writ petition.

8. Heard both sides and perused the materials available on record.



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9. It is the case of the respondent workman that enquiry was conducted in a mechanical manner. In order to consider that the petitioner management has conducted enquiry in a fair and proper manner by following principles of natural justice, the petitioner management is expected to file a copy of the enquiry report. However, to the reasons best known to the petitioner management, enquiry report has not been placed before the Labour Court and the Labour Court by recording the same has felt that on account of not filing of a copy of the enquiry report there was no option except to hold that the enquiry was conducted in a mechanical manner. Therefore, in the absence of the enquiry report, the Labour Court has rightly come to a conclusion that there are no records to hold that the domestic enquiry was conducted in a fair and proper manner. Finally, even in this writ petition the petitioner did not submit the enquiry report to demonstrate that the petitioner management has conducted the enquiry in a fair and proper manner.

Dr.D.NAGARJUN,J.

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10. In view of the above, there are no merits in this writ petition



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and hence, this writ petition is dismissed. Connected W.M.P.is closed. No costs.

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Index	:	Yes/No
Internet	:	Yes/No
Citation	:	Yes/No

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