



W.P(MD)No.8871 of 2021

WEB CO BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2024

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.8871 of 2021

and

W.M.P.(MD)No.6671 of 2021

The Management,
Tamil Nadu State Transport Corporation Tirunelveli Limited,
Ranithotam,
Nagercoil,
Kanyakumari District. ... Petitioner

Vs.

General Secretary,
The State Transport Employees Union (CITU)-6KKM,
Ranithotam,
Nagercoil
Kanyakumari District. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the Labour Court, Tirunelveli dated 29.11.2019 passed in I.D.No.66 of 2018.

For Petitioner : Mr.R.Rajamohan
For Respondent : No Appearance



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ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorari, to quash the impugned order passed in I.D.No.66 of 2018 dated 29.11.2019 passed by the learned Labour Court, Tirunelveli.

2.The delinquent namely R.Manoharan, while plying a passenger bus bearing registration No.TN-68-N-1056 from Nagercoil to Kulachal on 24.08.2010, caused an accident due to rash and negligent driving by hitting a two wheeler, which came in the opposite direction and caused traumatic accident to the passengers in the bus. Following which, a disciplinary proceeding was initiated by issuance of charge memo on the delinquent on 25.09.2010. An enquiry was conducted and the charges were also proved, thereby proposing a punishment of stoppage of increment for three years with cumulative effect on 02.06.2011. The second show cause notice was issued on the delinquent calling for an explanation why he should not be inflicted with the punishment and the same was duly replied by him on 23.01.2012. Not being satisfied with the said reply, the punishment of stoppage of increment for one year with



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cumulative effect came to be imposed on the delinquent. The conciliation proceeding sought for by the delinquent in respect of the order of the Enquiry Officer dated 05.02.2012 failed and hence, he raised an Industrial Dispute in I.D.No.66 of 2018 on the file of the learned Labour Court, Tirunelveli. The learned Labour Court quashed the order of punishment by an order dated 29.11.2019. Challenging the same, this Writ Petition came to be filed.

3.The learned counsel for the petitioner submitted that the main defence, which had been taken by the delinquent before the learned Labour Court is that the Management of the Transport Corporation had supported the case of the delinquent that he was diligent in his driving and that cannot be taken as a positive aspect to defend himself in the disciplinary proceedings and that the Management has always power to initiate disciplinary proceeding as against the delinquent in the facts and circumstances of every case of accident, if found necessary.

4.He further relied upon the judgment of the Hon'ble Full Bench of this Court in the case of ***V.Syril Sundararaj v. The Presiding Officer***



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and others in W.P.No.39563 of 2004 dated 01.04.2024. The Hon'ble Full Bench of this Court has categorically held that “the Management having filed a counter in MACT proceedings defending its driver, it does not preclude it from initiating disciplinary proceedings against the driver.”

5.Despite the name of the respondent being printed in the cause list, none appeared on behalf of the respondent.

6.Heard the learned counsel appearing for the petitioner and carefully perused the entire materials available on record.

7.Fully fortified by the judgment of the Hon'ble Full Court extracted supra, this Court is of the considered view that the counter filed by the Management in MACT proceedings defending it's driver does not preclude the Management from initiating disciplinary proceedings against the driver. In view of the same, this Court hereby quash the impugned order passed in I.D.No.66 of 2018 dated 29.11.2019 by the learned Labour Court, Tirunelveli.



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8. Accordingly, this Writ Petition stands disposed of. There shall be no order as to costs.

24.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Mrn



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L.VICTORIA GOWRI, J.

Mrn

Order made in
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24.04.2024