



W.P(MD)No.15070 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.15070 of 2018

and

W.M.P.(MD)No.13648 of 2018

The Management,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Nagercoil Region, Ranithottam,
Nagercoil, Kanyakumari District.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.S.Samy Kann (Driver),
Rep. by his General Secretary,
Tamil nadu State Transport Labour Union,
4KKM, Ranithottam, Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the 1st respondent in the proceedings in I.D.No.35/2017, dated 06.07.2017 quash the same.

For Petitioner : Mr.T.Jebaraj

For R1 : No Appearance

For R2 : Mr.C.Kishore



W.P(MD)No.15070 of 2018

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ORDER

Challenge has been made to the order dated 06.07.2017 passed by the 1st respondent.

2.The case of the petitioner is that the 2nd respondent is working as driver under the petitioner Management. On 10.07.2011 while he was driving the bus near Kandukrishigulam Curve road, one two wheeler was coming from opposite direction and due to rash and negligent driving of the 2nd respondent, he hit the two wheeler. Due to which, the rider and pillion rider died in the spot itself. In the departmental investigation, the 2nd respondent was found responsible for causing the said accident. Therefore, he was suspended from service and thereafter, the petitioner Management, vide order dated 07.09.2015, awarded the punishment of three year increment cut with cumulative effect. Challenging the said punishment, the 2nd respondent filed I.D.No.35 of 2017 before the 1st respondent, who in turn, vide order dated 06.07.2017, set aside the punishment imposed by the petitioner Management. Aggrieved over the same, the present Writ Petition is filed.

3.The learned counsel appearing for the petitioner would submit that the petitioner Management has found that if the driver has taken steps to stop



W.P(MD)No.15070 of 2018

the vehicle little earlier, the accident would have been avoided. However, without considering the said aspect, the impugned order came to be passed.

4.The learned counsel appearing for the 2nd respondent, relying upon the enquiry report, which was marked as Ex.M.3, would submit that in the enquiry report, it was not mentioned that there was a negligence on the part of the driver. He would further submit that even after seeing the rash and negligent driving on the part of the two wheeler, crossing the centre median, the driver / 2nd respondent stopped the bus and due to which, one wheel of the bus was on the mud road and another wheel was on the tar road. Considering this aspect, the 1st respondent has rightly set aside the punishment awarded by the petitioner Management. Therefore, this Writ Petition may be dismissed.

5.Heard the learned counsel on either side and perused the materials available on record.

6.It is the case of the petitioner Management that having found that due to rash and negligent driving on the part of the driver / 2nd respondent alone, the accident occurred, the petitioner Management imposed punishment of three year increment cut with cumulative effect. The petitioner Management



W.P(MD)No.15070 of 2018

has come to the said conclusion on the basis that the 2nd respondent has not taken any steps to stop the vehicle little earlier before the accident occurred.

However, on perusal of the enquiry report Ex.M.3, it is seen that there was no negligent driving on the part of the driver. He has taken all precautionary steps to stop the vehicle and stopped the vehicle on seeing the rash and negligence driving of the two wheeler, crossing the centre median. Therefore, this Court is of the view that there is no fault on the part of the driver / 2nd respondent while driving the bus.

7.Taking into consideration all these aspects only, the 1st respondent has come to the conclusion that the punishment awarded by the authorities concerned is not proper. Therefore, I do not find any error in the order of the 1st respondent. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

06.12.2024

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

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W.P(MD)No.15070 of 2018

KRISHNAN RAMASAMY, J

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W.P(MD)No.15070 of 2018

06.12.2024