



WP(MD)No.20950 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.20950 of 2016 and
WMP(MD) No.14949 of 2016

The Management,
Tamil Nadu State Transport Corporation
(Madurai Division) Limited,
Bye Pass Road,
Madurai – 10.

... Petitioner

Vs

1.The Presiding Officer,
Labour Court, District Court Buildings,
Madurai.

2.The General Secretary,
TNSTC, National Employees Union(INTUC),
Reg.No. Mdu/257,
3/4A, Pattukottai Kalyana Sundaram Street,
Opp.Prc Hed Office,
Bye Pass Road, Madurai.

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the 1st Respondent in the proceedings in I.D.No. 36 of 2014 dated 26.10.2015, quash the same.



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For Petitioner : Mr.J.Senthilkumaraiah,
For R2 : Mr.G.Mohan Kumar

ORDER

This writ petition has been filed by Tamil Nadu State Transport Corporation (Madurai Division) Limited, Madurai, as against the order passed by the Labour Court, Madurai in I.D.No.36 of 2014, dated 26.10.2015, which was raised by the Tamil Nadu State Transport Corporation National Employees Union (INTUC).

2.The learned counsel appearing for the petitioner Corporation submits that on 25.08.2008, at about 8:00 hours, one Murugesan, a driver of the petitioner Corporation, while driving the bus bearing registration number TN 58 N 0825, without seeing a bus coming in the opposite direction has suddenly applied the break and dashed against a two wheeler bearing registration Number: TN 67 H 5858, thereby the person, who travelled in the two wheeler died. In this regard, a criminal case in Crime No.546 of 2018, as against the said Murugesan has been registered and the same was also charge sheeted. However, the learned Judicial Magistrate No.II, Sattur, after the trial has acquitted the driver Murugesan, by a judgement dated, 18.05.2011 on the ground of benefit of doubt. According



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to the petitioner Corporation, the Corporation has suffered a loss of Rs. 7,00,000, by paying compensation to the victim's family, who died in that accident. Therefore, a departmental proceedings was initiated as against the driver and he was also imposed with the punishment of stoppage of increment for a period for one year with cumulative effect and the period of punishment was treated as loss of pay. As against this order, industrial dispute was raised before the Conciliation Officer and it was referred to the Labour Court, Madurai and the same was ordered in favour of the Driver. Challenging the same, the Transport Corporation has filed this writ petition.

3. According to the learned counsel, the Corporation has suffered a loss of of Rs. 7,00,000/- towards payment of compensation to the victim's family. The driver ought to have driven the vehicle in a careful manner, so that the accident could be avoided. The punishment imposed on the petitioner is not proportionate to his negligence, which caused death to a person. The Labour Court without considering the same has allowed the Industrial dispute.



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4. Since there was no representation for the second respondent/Union, this Court, by order dated, 05.08.2024 has appointed Mr. Mohan Kumar, learned counsel as a Legal Aid counsel to assist this Court on behalf of the second respondent.

5. The learned Legal aid counsel submits that during the enquiry, the enquiry officer has found that the charges levelled by the management has not been proved. However, punishment was imposed by the management on the driver, without assigning any reasons. A second showcase notice was issued without any reasons for differing with the views of the enquiry officer. During the enquiry, the staff of the department, who was also not an eyewitness to the occurrence alone was examined. The Labour Court has perused the enquiry report and found that it is very vague and the enquiry officer has not recorded any findings that both the bus drivers were equally held responsible for the accident or the driver, Murugesan, was responsible to some extent. The learned counsel has also pointed out that the second showcase notice was issued, as if the enquiry officer has given a finding that the charges leveled as against the driver was proved and the order of punishment is also passed in a mechanical manner,



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without assigning any reasons, for differing with the views of the enquiry officer and for imposing the punishment on the driver.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.Admittedly a domestic enquiry was conducted without examining the driver of the other bus, which was also involved in the accident. One Basker, who was working as Assistant in the petitioner Corporation alone was examined and he is not an eyewitness to the accident. Either the conductor of the bus or any passengers, who lodged a complaint were examined. There is no proper evidence that the driver, Murugesan, had driven the bus in a rash and negligent manner and due to his negligence alone the accident had happened. The enquiry officer has submitted a report that the charges levelled against the driver Murugesan were not proved and he cannot be found fault with. However, a second show cause notice was issued without assigning the reasons for differing with the views of the inquiry officer and the punishment has been imposed. The Labour Court has considered all the aspects and allowed the Industrial



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Distute, which needs no interference.

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8.In view of the above discussions and observations, this writ petition is dismissed. The legal aid authority is directed to pay a sum of Rs.15,000 to the Legal Aid Council. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index :Yes/No

Internet : Yes/No

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