



W.P(MD)No.8798 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.8798 of 2016 and
WMP(MD) No.6997 of 2016

The Management of
Tamil Nadu State Transport Corporation,
Virudhunagar Region,
Madurai Road,
Virudhunagar.

... Petitioner

Vs

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

2.The General Secretary,
State Transport Workers Union (CITU)
V.P. Cinthan Ninaivagam,
6/662, Lakshmi Nagar,
Madurai Road,
Virudhunagar -626 001.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the record of the 1st respondent in the proceedings in I.D.No. 3/2014 dated



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31.07.2015 and quash the same.

For Petitioner : Mr.J.Senthil Kumaraiah
For R2 : Mr.S.Arunachalam

ORDER

The Management of the Tamil Nadu State Transport Corporation, Virudhunagar has filed this writ petition as against the award passed by the Labour Court, Madurai in I.D.No. 3 of 2014 dated 31.07.2015.

2.The said award in I.D.No. 3 of 2014 was passed by the Labour Court, Madurai, on the reference made under Section 2(K) of the Industrial Disputes Act. A driver of the Tamil Nadu State Transport Corporation, Virudhunagar, by name, K.R. Mahendran has taken the Transport Corporation Bus bearing Reg.No.TN 67 N 0100 on 16.01.2008 from Pethusettipatti to Sivakasi. While the bus was nearing Vadamalapuram around 8.20 hours, gazed with a TVS 50 Moped, which came from the opposite direction, due to which, the rider of the two wheeler sustained grievous injuries and the pillion rider died, for which, a



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criminal case has also been registered as against the driver of the Transport Corporation bus. Pursuant to the same, the said driver was placed under suspension from 16.01.2008 to 09.02.2008 and he was also issued with a charge memo on 24.01.2008. Enquiry was conducted, the driver of the Transport Corporation bus was found guilty and accordingly a report was filed on 02.08.2008 that the charges as against the driver were proved. Based on the report submitted by the enquiry officer, the second show cause notice was issued on 30.08.2008. Thereafter, he was imposed with a punishment of confirming the suspension period from 16.01.2008 to 09.02.2008 as punishment, by order, dated 22.01.2008. The second respondent/Trade Union has raised an industrial dispute, under Section 10(1) (C) and 10 (1)(D) on 26.12.2013. Since no settlement has been arrived, the industrial dispute was referred to the Labour Court, Madurai under Section 2(K) of the ID Act. The Labour Court, Madurai, by its order, dated 31.07.2015 accepted the case of the Union and set aside the punishment imposed by the Management on 22.11.2008. Aggrieved over the same, this writ petition was filed by the Management in the year 2016.



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3.The learned counsel appearing for the petitioner Management submits that a domestic enquiry was conducted by the Management by affording sufficient opportunities to the driver and following the principles of natural justice. The Enquiry officer has found that the charges levelled as against the driver of the Transport Corporation were proved. Apart from that, the conduct of the driver was also taken into consideration by the Authority for imposing the punishment. The learned counsel has also pointed out that the proof required in domestic enquiry is just preponderance of probability of guilt and not any proof beyond doubts. However, the Labour Court has analyzed the evidence in depth as that of a criminal trial and taken the decision by setting aside the punishment imposed on the petitioner by the Management, which is liable to be quashed.

4.The learned counsel appearing for the second respondent/Trade Union submits that the Labour Court, Madurai has passed the award by considering all the materials and evidences placed



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before it and therefore, there is no need to interfere with the order of the Labour Court.

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

6.The Driver of the petitioner Corporation, namely, K.R.Mahendran was held responsible for an accident that took place on 16.01.2008 at about 8.20 hours, while he was on duty, due to which, one person died and another sustained grievous injury. It is reported that a criminal case has been registered as against the driver, however, the details of the criminal case has not been placed before this Court. The driver was placed under suspension from 16.01.2008 to 09.02.2008 and subsequently, after conducting the enquiry, he was imposed with the punishment of confirming the suspension period as punishment. On the industrial dispute raised by the second respondent, the Labour Court has set aside the punishment imposed on the driver. It appears that the criminal case registered as against the driver was ended in acquittal. The



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Labour Court has rendered its findings that the enquiry officer, without examining any witnesses to ascertain whether there was any negligence on the part of driver; not even the conductor of the bus, which was involved in the accident has been examined; there is no visible damage to the bus; no evidence has been examined from the place of occurrence, has set aside the punishment imposed on the driver. In the absence of any materials that due to the rash and negligent driving of the driver alone, the fatal accident had happened, the Labour Court has rightly set aside the punishment imposed as against the driver.

7.This Court finds no infirmity in the order passed by the Labour Court in I.D.No. 3 of 2014, dated 31.07.2015 and therefore, this writ petition is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

05.09.2024

NCC:Yes/No
Index:Yes
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B.PUGALENDHI, J.

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