



WP(MD)No.19846 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.19846 of 2017
and
WMP(MD)No.16108 of 2017**

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

... Petitioner

Vs

1.The Presiding Officer,
Labour Court,
Madurai.

2.General Secretary,
State Transport Thozhilalar Sangam,
Virudhunagar (CITU),
V.P.Chinthan Ninaivagam,
6/662, Lakshmi Nagar,
Madurai Road,
Virudhunagar.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records of the 1st respondent in the proceedings in ID.No.38 of 2015 dated 29.02.2016, quash the same.



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For Petitioners : Mr.J.Senthil Kumaraiah

For Respondent : Mr.S.Arunachalam

No.2

Respondent No.1 : Court

ORDER

This writ petition was filed by the Management of the Tamil Nadu State Transport Corporation as against the award passed by the Labour Court in ID.No.38 of 2015 dated 29.02.2016.

2. One Packiyaraj, who was working as a Driver [Workman] of the petitioner management was on a trip from Rajapalayam to K.Pudur on 02.03.2011 in the bus bearing registration number TN67 N 0140. He dropped the passengers at Srivilliputhur Athukadai bus stop. One woman passenger, who alighted from the bus, crossed the road in front of the bus and she was run over by the bus. Later on she died despite the treatment. In this regard a criminal case was registered in Crime No.95 of 2011 as against the Driver Packiyaraj for the offence under Section 304(A) IPC. Subsequently he was placed under suspension from 03.03.2011 to 01.04.2011. The domestic enquiry was conducted and the enquiry officer



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submitted his report that the charges against the workman were proved.

Based on the enquiry report, two show cause notices were issued to the workman seeking his explanation on 28.12.2011. In response, the workman by his letter dated 12.01.2012 requested for copy of the enquiry report, deposition copies and the documents relied on by the management during the enquiry. The management has furnished the copy of the enquiry report. The workman had also submitted his explanation on 30.03.2012, which is also marked as an exhibit. However the management proceeded with the show cause notices treating the letter of the workman dated 12.01.2012 as his reply to the show cause notices and by order dated 18.04.2012 imposed a punishment of stoppage of increment for a period of two years with cumulative effect and also treating the period of suspension as eligible leave period without considering the explanation offered by him. As against this punishment, the respondent trade union has raised conciliation proceedings before the Labour Officer and since it ended in failure, the government has referred the dispute to the Labour Court vide GO(D)No.151 dated 21.04.2016 under Section 10(1)(C) and 10(1)(d) of the Industrial Disputes Act, 1947 for adjudication as to whether the demand of the respondent trade union for setting aside the order of stoppage of increment for two years with cumulative effect is justified? The Labour Court by the impugned award in



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this writ petition decided that the order of stoppage of increment for two years with cumulative effect is unsustainable and set aside the order of punishment dated 18.04.2012. As against the award passed by the Labour Court, this writ petition is filed.

3.The learned Counsel for the petitioner Corporation submits that the Labour Court has passed the award only on the ground that the petitioner has failed to examine any of the eye witnesses to the incident or the Conductor of the bus. The management has examined one Raju, Assistant Engineer of the petitioner Corporation and also presented case. He further submits that it is the responsibility of the Driver to operate the bus ensuring that no one crosses the road and in this case, apparently there is negligence on the part of the Driver / workman and without noticing the passenger crossing the road in front of the bus, he started the bus and caused the fatal accident. The legal heirs of the deceased passenger has filed a claim petition before the Principal Sub Court, Srivilliputhur in MCOP No.136 of 2011, wherein compensation was also awarded and therefore, the management has suffered monetary loss.



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4.The learned Counsel for the respondent union submits that the bus was stopped in a bus stop for dropping the passengers from bus. Only after verifying that the passengers alighted from the bus and whistle signal was given by the Conductor to start the bus, he started the bus. Since the deceased passenger, who got from the bus and crossed the road front side of the bus was very short, she was invisible to the Driver and therefore, it cannot be stated that there is negligence on the part of the Driver. He also submits that the management has failed to examine the Conductor or any of passengers or eye witnesses to the occurrence on that day. The learned Counsel has also relied on the judgment in CC.No.103 of 2011 and submits that the learned Judicial Magistrate No.I, Srivilliputhur has found that the charges against the workman were not proved and acquitted the workman. However the domestic enquiry has been conducted without even examining the Conductor or the passengers of the bus and also the eye witnesses to the incident and the punishment was imposed simply by treating the request of the workman as his explanation without even considering the actual explanation offered him. Considering all these points the Labour Court has set aside the punishment and therefore there is no reason to interfere with the award passed by the Labour Court.



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

6.There was an accident on 02.03.2011 due to which a woman passenger succumbed to injuries. The Driver of the petitioner corporation, who was on a trip from Rajapalayam to K.Pudur had stopped the bus at Srivilliputhur, Athukal bus stop for dropping the passengers. One woman passenger got down from the bus and crossed the road in front side. She was hit by the Driver from right side of the bus and she succumbed to injuries. The management during the domestic enquiry had examined one Raja, Assistant Engineer as witness on behalf of the management. Admittedly this Raja was not an eye witness to the occurrence. However he admitted that the woman passenger, who had crossed the road on that day was very short and she was not visible from Driver seat. The only witness who was examined on the side of the management had not supported the case of the management and even according to this witness, the passenger who crossed the road was short and she was not visible to the Driver. Therefore in this context the non-examination of the Conductor and the co-passengers if any from the bus or any eye witness from the place of occurrence has its relevance and therefore the findings of the General Manager of the



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petitioner Corporation imposing punishment as against the Driver is not proper. As rightly pointed by the learned Counsel for the Union, the General Manager passed the order treating the request of the workman dated 12.01.2012 as his explanation for the show cause notices and imposed the punishment on 18.04.2012. However the workman had submitted his reply on 30.03.2012, which was also marked as an exhibit and admittedly this reply of the workman was not considered and therefore, this Court is not inclined to interfere with the award of the Labour Court, Madurai and accordingly, this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

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Internet : Yes / No

Index : Yes / No

DSK

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Labour Court,
Madurai.



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B.PUGALENDHI.J.,

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