



W.P.(MD)No.19857 of 2017

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.11.2024

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.(MD)No.19857 of 2017 &
W.M.P.(MD)No.16137 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 Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorari calling for the records of the proceedings of the first respondent in I.D.No.37/2015 dated 29.02.2016 and quash the same.



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For Petitioner : Mr.A.P.Muthupandian
For Respondents : Mr.P.Thambidurai,
Government Advocate for R1
Mr.S.Arunachalam for R2

ORDER

This writ petition was filed to quash the proceedings of the first respondent dated 29.02.2016 in I.D.No.37 of 2015.

2. In the present case, subsequent to the accident, disciplinary proceedings were initiated, wherein, the Authorities arrived at the conclusion that the accident occurred only due to the rash and negligent driving of the driver of the bus. Therefore, the driver was imposed with a punishment of three years increment cut with cumulative effect. The said order was challenged by the General Secretary, State Transport Thozhilalar Sangam before the Labour Court. The Labour Court, after hearing both sides, arrived at a finding that the failure to drive the bus diligently by the driver cannot be equated with causing of accident by driving the bus rashly and negligently and modified the punishment of three years increment cut with cumulative effect as three years increment cut without cumulative effect.



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3. The learned counsel appearing for the petitioner Management would submit that the driver himself admitted that he did not drive the bus diligently. Though the Labour Court recorded the same in its findings, still modified and reduced the punishment, which is contrary to the admitted facts. Therefore, he prays that the order of the Labour Court may be set aside and the original punishment may be restored.

4. On the other hand, the learned counsel appearing for the second respondent would submit that the Labour Court has come to the categorical conclusion that the accident was not due to the rash and negligent driving on the part of the driver, since the petitioner Management failed to prove their case by adducing appropriate oral and documentary evidence and also failed to examine the driver, conductor or passengers. Therefore, it passed the reasonable award of modifying the punishment as three years increment cut without cumulative effect. The learned counsel would submit that there is no error in the orders of the Labour Court and the same may be confirmed and the writ petition may be dismissed.



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5. I have given due consideration for the submissions made on either side and perused the materials available before this Court.

6. Admittedly, to prove the rash and negligence driving on the part of the driver, the petitioner Management ought to have examined either the driver, conductor or the passenger. Since the petitioner Management has not examined any witness on their side and failed to substantiate their case, the Labour Court has come to the conclusion that the rash and negligence driving on the part of the driver has not been proved. Further, the Labour Court had arrived at a finding that the driver might not have driven the bus diligently and that might have caused the accident. But, that cannot be equated with rash and negligent. No evidence was adduced on the side of the petitioner Management to the effect that the driver did not drive the bus diligently or he had driven the bus rash and negligently. Under such circumstances, the Labour Court has passed the order modifying the punishment imposed on the driver. I do not find any fault in the orders passed by the Tribunal. Therefore, the orders passed by the Tribunal to the extent of modification of the



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punishment as three years increment cut without cumulative effect stands confirmed.

7. Accordingly, the writ petition stands dismissed. No costs. The petitioner Management is directed to provide all the benefits to the driver of the bus as per the orders passed by the Labour Court within a period of three months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed.

11.11.2024

NCC:Yes/No
Index:Yes/No
Speaking/Non-speaking order

mbi

To

The Presiding Officer,
Labour Court, Madurai



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KRISHNAN RAMASAMY, J.

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