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W.P.Nos.20646 & 26400 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.Nos.20646 & 26400 of 2011

and

MP.No.1 of 2011

W.P.No.20646 of 2011:

The General Manager,
M/s. Tamil Nadu State Transport Corporation,
Rangapuram, Vellore – 9.

...Petitioner

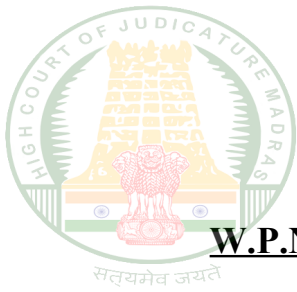
Vs.

1. The Presiding Officer,
Principal Labour Court,
Vellore District, Vellore.

2. R.Suresh Babu

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to I.D.No.328 of 2002 dated 20.01.2011 on the file of the 1st respondent herein and quash the same.



W.P.Nos.20646 & 26400 of 2011

W.P.No.26400 of 2011:

WEB COPY R.Suresh Babu

...Petitioner

Vs.

1. The Presiding Officer,
Principal Labour Court,
Vellore District, Vellore.

2. The Management,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Vellore Region, Rangapuram, Vellore – 632 009.
Rep. By its General Manager

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records in I.D.No.328 of 2002 on the file of the 1st respondent and quash order dated 20.01.2011 insofar as it relates to grant of 50% of back wages.

In Both W.P's.:

For Petitioner : Ms.S.Pavithra
(in W.P.No.20646 of 2011)
: Ms.K.Chandrakala
(in W.P.No.26400 of 2011)

For Respondents : R1- Labour Court
(in both W.P's.)
: Ms.K.Chandrakala
(for R2 in W.P.No.20646 of 2011)
: Ms.S.Pavithra
(for R2 in W.P.No.26400 of 2011)



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COMMON ORDER

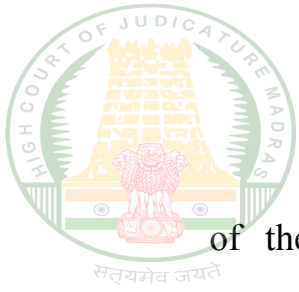
WEB COPY Since the issue involved in both the writ petitions are interconnected, they are disposed of by way of this common order.

2. Challenging the very same Award dated 20.01.2011 made in I.D.No.328 of 2002, in and by which, while setting side the dismissal order, the 1st respondent/Labour Court ordered the reinstatement of the workman with 50% back wages, both the workman as well as the management have come up with these Writ petitions.

3. For Brevity, the parties are herein referred to as per their array in W.P.No.20646 of 2011.

4. The facts leading to filing of these Writ petitions are as follows:

It is the case of the 2nd respondent/workman that he was engaged as a Driver by the petitioner Corporation since 04.01.1995. While so, on 15.05.1998 at about 08.15 p.m., when the 2nd respondent drove the bus on route No.2A from Ambur to Gudiyatham and when the bus was reaching Rasanpettai village, he found a person lying on the road and with the help



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of the passengers, the 2nd respondent admitted the said person in a Government hospital. However, the petitioner corporation, without verification of the facts, laid a charge sheet, alleging that the 2nd respondent caused the death of a person by driving the bus in a rash and negligent manner and after issuance of a charge memo, domestic enquiry was conducted and based on the findings of the Enquiry Officer that the charges were proved, the 2nd respondent came to be terminated from service. Before the the 1st respondent/Labour Court, the 2nd respondent raised a preliminary issue that the domestic enquiry was not conducted by the petitioner in a free and proper manner and the same was in violation of principles of natural justice. The Labour Court has dealt with the preliminary issue and vide order dated 08.10.2010, held that the domestic enquiry conducted by the petitioner corporation was not proper and set aside the report of the enquiry officer. Subsequently, the 1st respondent Labour Court, vide impugned Award dated 20.01.2011, while setting aside the termination order, ordered for reinstatement of the 2nd respondent workman with continuity of service and all other attendant benefits and also awarded 50% back wages. Challenging the same, these Writ petitions have been filed.



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5. Learned counsel for the petitioner corporation submitted that, for the fatal accident caused by the 2nd respondent/workman within a period of three years of his service, the petitioner has to pay lumpsum compensation to the victim's family and the misconduct being serious in nature, the petitioner initiated disciplinary proceedings and the same ended in dismissal, which was not considered by the Labour court and ordered for reinstatement that too with 50% back wages, which is wholly unsustainable. Accordingly, she prayed for appropriate orders.

6. Per contra, the learned counsel for the 2nd respondent/workman submitted that, the victim was the one who was lying on the road and the said accident was not caused due to the rash and negligence on the part of the workman. Learned counsel further submitted that, having held that the domestic enquiry was not conducted in a fair and proper manner, instead of awarding 50% back wages, the tribunal ought to have awarded full back wages. Further, the petitioner Corporation did not prefer any appeal over the said order dated 08.10.2010 setting aside the report of the enquiry officer nor let in fresh evidence to prove the charges framed against the 2nd respondent workman. Accordingly, she prayed for appropriate orders.



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7. Heard learned counsel on either side and perused the material

documents placed on record.

8. Now the issue arises for consideration is whether the Award passed by the 1st respondent Labour Court suffers from any infirmity and liable to be set aside?

9. As regards the preliminary issue, admittedly the 1st respondent/ Labour Court held that the domestic enquiry conducted by the petitioner corporation was not proper and thereby, set aside the report of the enquiry officer. It is equally not in dispute that the petitioner Corporation did not prefer any appeal over the said order nor let in fresh evidence to prove the charges framed against the 2nd respondent workman. The 1st respondent/ Labour Court has categorically held that the petitioner Corporation though marked 13 documents to prove the charges against the 2nd respondent workmen, but the same would not constitute fresh evidence and further, no passenger who travelled in the bus at the material time and witnessed the incident, were not examined. It is settled law that when the enquiry has been found to be defective, it is incumbent on the part of the management to let in

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evidence to justify the termination order and if such evidence was not let in, the consequences would be contrary to the management. In the present case, the petitioner Corporation has not let in any evidence to justify the termination order passed against the 2nd respondent/workman. The 1st respondent Labour Court has rendered finding in a well considered manner, which requires no interference.

10. However, taking note of the fact that the termination order passed against the 2nd respondent has been set aside only on the ground that the petitioner Corporation has failed to prove the charge, but it does not *ipso facto* give clean chit to the 2nd respondent workman, particularly, in the circumstances which he narrated that a person was lying on the road and he could not move the bus and he had taken the said person with the help of passengers to the hospital. Therefore, this Court is of the view that ordering reinstatement with continuity of service with all other attendant benefits would be sufficient and meet ends of justice and that he is not entitled to any back wages. Accordingly, 50% back wages awarded by the 1st respondent/Labour Court is set aside.



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11. In view of the above, this Court is inclined to modify the impugned award dated 20.01.2011 made in I.D.No.328 of 2002 with the following directions:-

(i) The petitioner management is directed to reinstate the 2nd respondent back into the service with continuity of service and all other attendant benefits within a period of two weeks from the date of receipt of a copy of this order. However, it is made clear that, the 2nd respondent is not entitled for any back wages as awarded by the labour court.

(ii) The petitioner management, shall not recover the amount, if any paid to the 2nd respondent by way of 17B wages.

12. With the above observations and directions, these Writ petitions stand disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

03.02.2025

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

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To

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2. The General Manager,
M/s. Tamil Nadu State Transport Corporation,
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M.DHANDAPANI, J.

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