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W.P. No.3328 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P. No.3328 of 2024
and WMP.No.3582 of 2024

The General Manager
Tamil Nadu State Transport Corporation
(Coimbatore) Ltd.,
Tiruppur Region
Tiruppur.

... Petitioner

Vs.

1.M.Krishnan

2.The Special Deputy Commissioner of Labour
Chennai.

... 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 second respondent made in A.P.No.193/2020 dated 27.01.2023 and to quash the same as illegal and against the provisions of the Industrial Dispute Act, 1947.

For Petitioner	:	Mr.M.Murali Vinodh
For Respondents	:	Mr.V.Porkodi for R1 Mrs.M.Jayanthi Addl Government Pleader for R2



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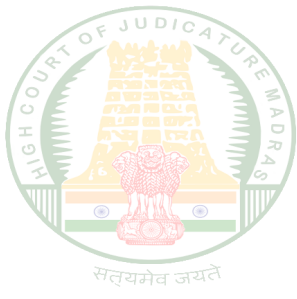
W.P. No.3328 of 2020

ORDER

Challenging the order passed by the second respondent in rejecting the approval petition filed by the petitioner-Corporation, this writ petition has been filed.

2. The facts which have led to the filing of the writ petition are herein below set out :

- a) The first respondent was appointed as Driver in the petitioner-Corporation on 12.12.2009. On 07.12.2019, while he was driving the bus bearing No.TN 39N 0049, from Erode to Palani, at around 01.10 p.m., the vehicle was involved in an accident by hitting a motorcyclist, who was proceeding in front of the vehicle, as a result of which, the motorcyclist had succumbed to injury, on the route to the hospital.
- b) On receiving the information, the first respondent was placed under suspension from 08.12.2019. Therefore, as per the Standing Orders of the petitioner-Corporation, a charge memo dated 09.01.2020 was issued to the first respondent demanding his explanation. Since the explanation offered by the first respondent



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vide his communication dated 20.01.2020 was not found satisfactory, an Enquiry Officer was appointed. Ultimately, the Enquiry Officer after conducting enquiry, submitted his report dated 25.09.2020, holding that the charges framed as against the first respondent/workman, are found proved.

- c) The petitioner-Management had forwarded the enquiry report dated 25.09.2020 under cover of letter dated 28.09.2020, to the first respondent seeking an explanation. The explanation was also received from the first respondent on 05.10.2020. Thereafter, a second show cause notice dated 06.10.2020 was issued to the first respondent, asking him to offer his explanation as to why the punishment should not be imposed upon him.
- d) The explanation submitted by the workman to the show cause notices was turned down and the petitioner-Management had issued an order of dismissal dated 31.10.2020.
- e) The petitioner-Management thereafter filed an approval petition under Section 33(2)(B) of the Industrial Dispute Act, 1947, before the Special Deputy Commissioner of Labour, Chennai, the second respondent herein and the same was taken on file in A.P.No.193 of



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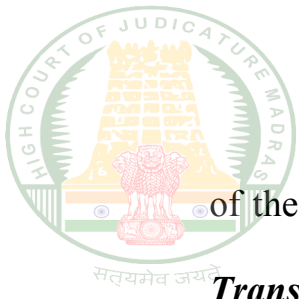


2020. This approval petition came to be rejected by an order dated 27.01.2023.

Challenging the dismissal of the approval petition in A.P.No.193 of 2020, the Management is before this Court in the present writ petition.

2. Heard the learned counsels on either side.

3. The approval petition in A.P.No.193 of 2020 has been rejected on the ground that the domestic enquiry was not conducted in a fair and proper manner, and that apart, the petitioner-Management had not proved a *prima facie* case that the first respondent had caused the accident. In fact, this came to light by the statement made by the Management in MCOP.No.97/2020, which was filed by the legal representatives of the deceased Karuppanna Gounder, the victim of the accident. In the said MCOP, the Management had taken a stand that the first respondent herein had driven the vehicle in a careful manner and that the accident had occurred only on account of the negligence of the motorcyclist. Once the petitioner-Management had admitted that the first respondent has driven the vehicle in a careful manner, they cannot approbate and reprobate. A Division Bench



of the Hon'ble Supreme Court in the judgment in ***Maharashtra State Road***

Transport Corporation Vs Mahadeo Krishna Naik reported in (2025) 4

SCC 321, has frowned upon the contradictory stances that has been taken by

the Transport Corporation, one before the Motor Accident Claims Tribunal

and other before the Labour Court. The Bench had discussed as follows :

"29. We are conscious that the law of evidence per se does not apply to industrial adjudication. Nevertheless, the general principles do apply. In any event, in industrial adjudication, principles of natural justice have to be complied with. Fairness in procedure has developed as the third limb of natural justice. The manner in which the Corporation conducted itself before the Labour Court does not behove a creature of statute. It has been far from fair in its dealings with Mahadeo.

30.

31.

32. Even if we keep the award of MACT aside, it is clear from the pleadings of the Corporation before MACT and the Labour Court that the Corporation has attempted to get the best of both worlds. The contradictory nature of the stances taken by the Corporation before the Labour Court and MACT reeks of the Corporation trying to approbate and reprobate on the same issue. It is bound to cause immense prejudice to Mahadeo if the Corporation is allowed to reverse its stance to suit its own interests."



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4. Therefore, the findings of the Labour Court that a *prima facie* case has not been made out, has to be upheld. That apart, the petitioner-Corporation have not examined the eyewitnesses, which also caused great prejudice to the first respondent-employee. The Labour Court had rightly sifted through the evidence to arrive at a conclusion that the petitioner-Management has not proved their contention that the first respondent had been negligent and had caused the accident.

5. With the above observation, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Neutral Citation : Yes / No
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P.T. ASHA, J.

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