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W.P.No.5661 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2025

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

W.P.No.5661 of 2019

and

WMP.No.6447 of 2019

The Managing Director,
The Tamil Nadu Tourism Development
Corporation Ltd.,
Chennai – 600 002.

...Petitioner

Vs.

V.Ravi

...Respondent

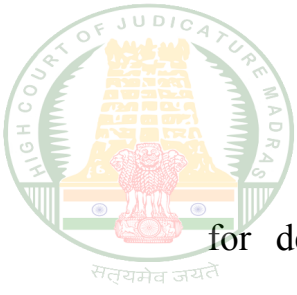
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records in I.D.No.254/2012 by the 1st Additional Labour Court, Chennai and quash the same.

For Petitioner : Mr.Neelakandan, AAG Assisted by
M.Keerthika

ORDER

At the outset this Court expresses the depression in the manner in which the Tourism and Development has conducted this writ petition.

2. The Corporation has allowed the writ petition to be dismissed



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for default on two occasions, one on 08.10.2021 and another on 07.12.2023. Though the department has dedicated Advocates to represent it, the Corporation has allowed the writ petition to be dismissed for default not on one occasion but twice.

3. The Corporation seeks to challenge the order passed by the I Additional Labour Court, Chennai in I.D.No.254 of 2012, whereby, the respondent herein was reinstated with continuity of service and the Corporation was directed to pay 50% back wages along with other attendant benefits from the date of termination till the date of reinstatement.

4. Short facts are that the respondent was employed as Driver in Tamil Nadu Tourism Development Corporation. On 14.02.2007, while the respondent was driving a luxury coach from Chennai to Salem, the vehicle met with an accident and it dashed against an on coming lorry. Due to the impact, two tourists were seriously injured. The corporation issued a charge memo to the respondent on 15.05.2007 framing four charges on 22.04.2008. The enquiry officer submitted his report stating that the charges 1, 2 and 4 stood grouped and charge No.3 that the



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respondent was in a drunken stated on the fateful day was not proved.

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Based on the said report, the petitioner Corporation dismissed the respondent vide order dated 11.02.2010. The respondent raised the industrial dispute which was referred to the I Additional Labour Court, Chennai and taken on file as I.D.No.254 of 2012. The management let in oral evidence and marked 9 documents. The respondent neither chose to examine any witness not marked any documents. The Labour Court on an analysis of materials placed before it came to a conclusion that the petitioner Corporation has not proved the charges framed against he respondent and ultimately directed reinstatement with continuity of services and 50% of back wages. Challenging the same, the present writ petition has been filed.

5. The learned counsel for the petitioner submitted that the respondent had drove the vehicle in a rash and negligent manner and caused the accident. Two tourists were seriously injured. The learned counsel also submitted that the Corporation suffered a loss of Rs.1,25,603/- because of the accident. Learned counsel further stated that the respondent had brought disrepute to the tourist Corporation. Learned counsel submitted that though the respondent has admitted before the



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Criminal Court that would not have a bearing on the departmental proceedings. The methodology of proof before the Criminal Court is different from departmental proceedings. The learned counsel therefore submitted that the award passed by the Tribunal needs interference and the same may be set aside.

6. Though the notice was served on the respondent, no one appeared on his behalf. Considering the period of pendency of the above writ petition the same is disposed of based on the materials available on record.

7. Heard the learned counsel for the petitioner and perused the materials placed on record.

8. For a start, this Court clarifies that order of acquittal in a criminal Court has its value while deciding the departmental proceedings. May be, if delinquent gets an Hon'ble acquittal after a full fledged trial and if the charges before the Criminal Court and the departmental proceedings are one and the same and the witnesses to be examined are also the same then in that case, the order of acquittal would



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assume importance. In this case, the respondent was acquitted only by extending benefit of doubt. Therefore, this Court is not inclined to go deep into the impact of acquittal on the departmental proceedings.

9. The Labour Court has found that a guide who travelled in the tourist bus namely Mr.Kingsley has not been examined either before the enquiry officer or before the Tribunal. He is the best evidence to state as to what exactly happened on that fateful day. Before the Labour Court, the Officer who deposed has only stated that he is only a hearsay evidence and whatever Mr.Kingsley has said, he has parroted before the Labour Court. The Labour Court has observed that as per the statement of Mr.Kingsley, the respondent was not at fault and in order to avoid a very deep pit, the respondent turned the vehicle to right side and at that time, the lorry which was coming on the opposite direction dashed against the bus. Likewise, the Labour Court has observed that none of the passengers who travelled on the bus have been examined to prove as to what or how the accident had taken place. Even before this Court the Corporation has no answer for the non-examination of either Mr.Kingsley or any of the passengers who travelled on that bus. It is stated that two persons had suffered serious injuries because of the



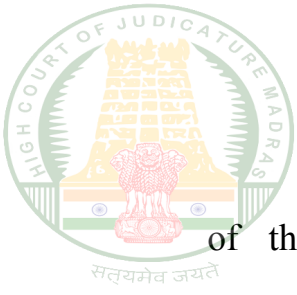
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accident. Undoubtedly, those two persons would have filed a claim petition seeking compensation. It is no doubt true that, the Corporation would have defended the respondent before the Motor accident claims Tribunal. The Corporation cannot blow hot and cold before the Labour Court and before the Claims Tribunal. The Labour Court has also held that misconduct of the respondent has not been proved and that the report of the enquiry officer was very cryptic, absurd and non-speaking on certain aspects.

10. This Court is in complete agreement with the findings rendered by the Tribunal. Non-examination of tourist guide Mr.Kingsley and any of the tourist who travelled on that bus is fatal to the case put forward by the Corporation. Therefore, the award passed by the learned Tribunal is sustained. This Court is also in agreement with the finding that the respondent is not entitled to full wages during the period he was not working and the Tribunal by adopting the principles of no work no pay held that the respondent would be entitled to 50% backwages only. This Court is in complete agreement with the said finding also.

11. In the result, the writ petition stands dismissed and the award



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of the Labour Court directing reinstatement of respondent with continuity of service and 50% of back wages and all other attendant benefits from the date of termination till the date of reinstatement is confirmed. No costs. Consequently, connected miscellaneous petition is closed.

08.04.2025

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

To

The 1st Additional Labour Court, Chennai



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W.M.P.No.36267of 2023

in

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M.DHANDAPANI., J.

Ordered.

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