



W.P.No.26292 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.26292 of 2015

and

M.P.No.1 of 2015

The Management,
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam,
Represented by its General Manager. ... Petitioner

Vs.

1.R.Jayaprakasam

2.The Special Joint Commissioner of Labour (Conciliation),
DMS Compound,
Chennai. ... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India
pleaded to issue a Writ of Certiorari, to call for the records passed by the
2nd respondent in A.P.No.261 of 2011 dated 18.04.2013 and to quash the
same.

For Petitioner : M/s.M.Rohini

For Respondents : Mr.S.N.Arunkumar
for M/s.A.P.Sathyamurthi [R1]
Mr.K.Surendran
Additional Government Pleader [R2]



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ORDER

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Challenging the rejection of the approval petition filed by the petitioner-Transport Corporation in A.P.No.261 of 2011 by the 2nd respondent vide order dated 18.04.2013, the present writ petition is filed.

2. It is the case of the petitioner that the 1st respondent was working as a driver in the petitioner corporation. Whiles, on 28.09.2010, when the 1st respondent was driving the bus towards Chidambaram, while nearing, Tharasuram Market, he drove the vehicle in a rash and negligent manner and hit against a tricycle. The three persons who were in the said bicycle sustained grievous injuries and they succumbed to the injuries. The 1st respondent was charge sheeted and not being satisfied with the explanation domestic enquiry was ordered. The enquiry officer submitted a report stating that the charges stood proved. The petitioner issued second show cause notice and thereafter, dismissed the 1st respondent. The petitioner filed an approval petition before the 2nd respondent seeking to approve the dismissal of the 1st respondent. As per the decision of the Apex Court in the case of ***Lalla Ram Vs. Managment of D.C.M. Chemicals Works Ltd. & Ors.*** reported in ***AIR 1978 SC 1004***, applied the five test enumerated in the said case. The 2nd respondent held



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that the petitioner has not proved the guilt of the 1st respondent by

adducing proper evidence and therefore, rejected the approval petition.

Challenging the same, the present writ petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the 1st respondent was involved in a serious misconduct of causing death of three persons. The 2nd respondent has given the misplaced sympathy and rejected the approval petition. According to the petitioner, principles of natural justice was followed and after giving due opportunity to the 1st respondent to prove his innocence, the dismissal order was passed. Therefore, he submitted that the labour court had erred in rejecting the approval sought for. Hence, he prayed that this writ petition may be allowed by setting aside the impugned order.

4. Learned counsel appearing for the 1st respondent submitted that the impugned order warrants no interference and the 2nd respondent was justified in rejecting the approval petition on the ground that the petitioner management has not proved the charge against the 1st respondent by making it a prima face case and adducing proper evidence. Therefore, he prayed for rejecting this writ petition.

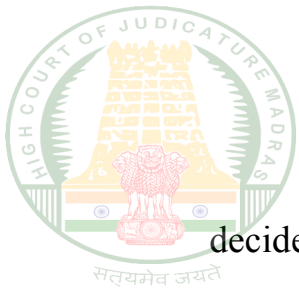


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5. Heard the learned counsel appearing for the parties and also perused the materials available on record.

6. The 1st respondent is alleged to have driven the bus in a rash and negligent manner and caused death of three persons. The facts speak for themselves. The 1st respondent has not disputed that he was responsible for the death of the three persons or he was not behind the wheels on that fateful day. The 2nd respondent has grossly erred in expecting the petitioner to prove the misconduct of the 1st respondent through another source of evidence. The fact that the 1st respondent has caused death of three persons remains un rebutted. The 2nd respondent ought not to have rejected the approval in a case of this nature where three persons have lost their life. The question whether the tricycle driver was responsible for the accident or he had contributed for the accident is not an issue to be decided before domestic enquiry. It is a matter to be decided in claim petition or before the criminal court. The test here to be applied is whether the guideline framed by the Apex Court in the *Lalla Ram's* case is followed or not. In the present case, a perusal of the impugned order, this Court is of the view that the approval petition



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decided by the 2nd respondent is contrary to *Lalla Ram's* case. Therefore,

this court has no hesitation to set aside the order passed by the 2nd respondent and allow this writ petition.

7. In the result, this Writ Petition stands allowed and the impugned order passed by the 2nd respondent in A.P.No.261 of 2011 dated 18.04.2013 is set aside. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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(2/3)

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

To

- 1.The General Manager,
Tamilnadu State Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam Region,
Kumbakonam.
- 2.The Special Joint Commissioner of Labour (Conciliation),
DMS Compound,
Chennai.



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M.DHANDAPANI, J.

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