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W.A.No.1761 of 2025

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2025

CORAM:

**THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE K.SURENDER**

**W.A.No.1761 of 2025
and
C.M.P.No.13468 of 2025**

The Management,
Rep. by its General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Limited.,
Cuddalore Region,
Cuddalore District.

... Appellant

Vs.

1.The Special Deputy Commissioner of Labour,
Chennai.

2.G.Ramachandran

... Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 09.01.2025 made in W.P.No.13628 of 2022.

For Appellant : Mr.M.Aswin
for Ms.S.Pavithra

For Respondents : Mr.S.Yashwanth,
Additional Government Pleader for R1
Mr.R.Sankarasubbu for R2



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J U D G M E N T

WEB COPY (Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

We do not see any merit in the appeal. Challenge is to the order dated 09.01.2025 made in W.P.No.13628 of 2022. Challenge in the Writ Petition was by the 2nd respondent to the order of the Labour Court granting approval to the proposed punishment of dismissal under Section 33(2)(b) of the Industrial Disputes Act.

2. The case has a chequered history. The 2nd Respondent, who was working as a Driver in the appellant Management was charged with negligence and a charge memorandum was issued to him on 02.05.2013 for causing a fatal accident on 30.12.2012. A domestic enquiry was conducted and the enquiry officer came to a conclusion that the charges were proved. A second show cause notice was issued and the proposed punishment of dismissal was sought to be inflicted.

3. As per the settlement between the Trade Union and the Management, the Management sought for approval of the proposed punishment under section 33(2)(b). Originally the Labour Court refused



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approval. The said order was challenged before this Court and this Court remitted the matter for a fresh consideration. Upon remand the Labour Court allowed the application for approval on the ground that the acquittal by the criminal Court of the charges was on benefit of doubt and therefore there can be an independent enquiry by the Corporation. This order granting approval was subject matter of challenge in the above Writ Petition.

4. The writ Court after referring to various judgments on this issue, concluded that unless it is shown that acquittal by the criminal Court is on benefit of doubt, the charge being based on the very same occurrence, cannot stand independently after the criminal Court renders a verdict of acquittal.

5. The learned Single Judge had referred to the judgment of the criminal Court and found that the acquittal was not one based on benefit of doubt. Though the phrase “benefit of doubt” is used in the paragraph No.11 of the judgment of the criminal Court, the learned Single Judge found that the acquittal was based on absence of evidence. Therefore, the learned Single Judge came to a conclusion that once the criminal Court has acquitted

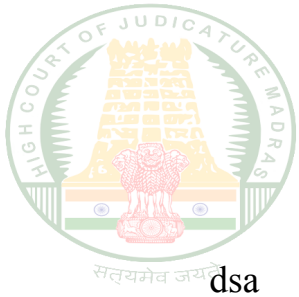


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the workman of negligence in a prosecution under Section 304A of IPC, the said judgment of the criminal Court has to be given precedence over the report of the enquiry officer and hence the approval granted cannot be sustained.

6. In fact, the learned Single Judge had also referred to the judgment of the Hon'ble Supreme Court in *John D'Souza Vs. Karnataka State Transport Corporation* (order dated 16.10.2019 in *Civil Appeal No.8042 of 2019*), where the scope of enquiry in petition under Section 33(2)(b) was expanded by the Hon'ble Supreme Court.

7. In the light of the above, we do not think there is any need to interfere with the order of the learned Single Judge. The Writ Appeal fails and it is accordingly **dismissed**. The appellant is granted twelve (12) weeks time, from the date of uploading of the copy of this order, to comply with the order of the learned Single Judge and release the retiral benefits. No costs. Consequently, the connected miscellaneous petition is closed.



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(R.S.M.,J.) (K.S.,J.)
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Index : No

Internet : Yes

Neutral Citation : No

Speaking order

To

1.The General Manager,
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(Villupuram) Limited.,
Cuddalore Region,
Cuddalore District.

2.The Special Deputy Commissioner of Labour,
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