



WEB COPY



W.P.No.9008 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2025

CORAM :

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

W.P.No. 9008 of 2021

and

WMP.Nos.9539 of 2021 and 20123 of 2022

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Dharmapuri Division,
Bharathipuram,
Salem main Road,
Dharmapuri – 5.

...Petitioner

Vs.

1. K. Indira
2. Minor K Bhuvaneswari
3. Minor Poovizhi
4. Rajamma

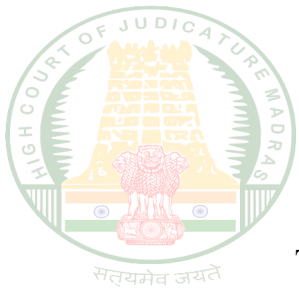
...Respondents

Prayer:

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorari calling for the records relating to the order dated 28.08.2019 passed by the Presiding Officer in I.D.No.71 of 2013 and to quash the same.

For Petitioner	:	Mr.M Aswin
For Respondents	:	Mr. Mr.N Kesavaraj for Mr.R.Thamaraiselvam

ORDER



W.P.No.9008 of 2021

WEB COPY

This writ petition has been filed challenging the order dated 28.08.2019 passed by the Presiding Officer, Labour Court, Salem (for brevity 'the Labour Court') in I.D.No.71 of 2013.

2. The facts of the case are as follows.

The first respondent's husband, *viz.*, Kovalan was appointed as a Conductor on 25.05.1990 in the petitioner's Corporation and was subsequently dismissed from service on 06.11.2009 for certain allegations, after following due process of law and after conducting domestic enquiry by affording sufficient opportunity. Since the first respondent's husband, the said Kovalan died, the legal heirs of the deceased employee, the respondents herein, took up the cause of the deceased employee and challenged the said order of dismissal dated 06.11.2009 before the Labour court in I.D.No.71 of 2013. The Labour Court, had mechanically, allowed the said dispute in part, *vide* impugned order dated 28.08.2019 by setting aside the order of dismissal and directed the petitioner Corporation to pay the entire back wages and other monetary benefits to the respondents herein, who are the legal heirs of the deceased employee within a period of three months. Aggrieved by the said order, the petitioner Corporation has



W.P.No.9008 of 2021

come up with the present writ petition.

WEB COPY

3. The learned counsel for the petitioner Corporation submitted that though the deceased employee had collected ticket fare from 36 passengers, however, had not issued tickets to them and had misappropriated a sum of Rs.468/-. In addition, during the inspection conducted by the checking Inspector, an excess sum of Rs.246/- was found in possession of the deceased employee. Thereby, the petitioner Corporation terminated the deceased employee from service, after conducting appropriate enquiry. While so, the Labour Court, without considering the oral and documentary evidence and also the material evidence of the trip sheet printout taken from the ticket vending machine which clearly establishes the misappropriation committed by the deceased employee, had erroneously passed the impugned award dated 28.08.2019 directing the petitioner Corporation to pay the entire back wages and other monetary benefits to the respondents, which is wholly unsustainable. Accordingly, he prayed for appropriate orders.

4. Per contra, the learned counsel for the respondents submitted that the first respondent's husband entered into the services of the



W.P.No.9008 of 2021

petitioner Corporation as a Conductor on 25.05.1990 and was working with utmost sincerity and dedication. While so, on 12.11.2008, all of a sudden, he was suspended from service alleging that he had misappropriated the Corporation fund and subsequently, dismissed him from service on 06.11.2009. The fact is that on the date of occurrence, the ticket vending machine was not working due to lack of electrical charge and the deceased employee was trying to repair the same. During that time, some of the passengers started to attack him and he was compelled to continue the bus. While so, the checking Inspector, inspected and checked the ticket vending machine and ascertained that there was a defect in the vending machine and further directed the deceased employee to issue tickets manually. The said facts were also admitted by the checking Inspectors in their oral evidences who were examined as RW.1 and RW.2 before the Labour Court. Learned counsel further submitted that, due to the mental agony caused by the above said act of the petitioner Corporation, the first respondent's husband died on 16.11.2009, which was after few days from the date of his dismissal from service. Learned counsel also submitted that, the petitioner Corporation did not conduct the domestic enquiry in a fair and proper manner and had not given sufficient opportunity to the deceased employee to prove his case. The Labour Court,



W.P.No.9008 of 2021

after considering all the above said facts, passed the present impugned award, which cannot be said to be erroneous. Hence, sought for dismissal of the present writ petition.

5. Heard both sides and perused the materials available on record.

6. This Court perused the materials placed on record, particularly the impugned award and on a perusal of the same, this Court is of the view that, the Labour Court after careful consideration of the material documents placed before it, gave a finding that the checking Inspectors examined as RW.1 & RW.2 before the Labour Court, in their oral evidence, have given a contradictory statement with regard to the ticket vending machine and thereby, has concluded that the findings of the enquiry officer was erroneous and the order of dismissal is against the natural justice and accordingly set aside the order of dismissal passed against the deceased employee by the petitioner Corporation and directed the petitioner to pay the backwages and other benefits to the respondent herein and the said award of the Labour court cannot be said to be erroneous and the same does not warrant any interference of this Court, as



W.P.No.9008 of 2021

the petitioner Corporation failed to convince this Court as to why the order of the Labour Court has to be set aside.

WEB COPY

7. For the reasons aforesaid, this Writ petition stands dismissed and the petitioner Corporation is directed to honour the impugned award dated 28.08.2019 passed by the Labour Court by paying all the back wages, arrears of pension, family pension and all other terminal benefits in favour of the respondents herein, who are the legal heirs of the deceased employee, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the deceased employee would be entitled for continuity of service for the purpose of calculating the terminal benefits. No costs. Consequently, the connected Miscellaneous petitions are closed.

23.04.2025

vca

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

M.DHANDAPANI,J.

Vca



WEB COPY



W.P.No.9008 of 2021

**W.P.No. 9008 of 2021
and
WMP.Nos.9539 of 2021 and 20123 of 2022**

23.04.2025