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W.P.No.20119 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.06.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.20119 of 2025
and WMP.No.22694 of 2025

The Management
Metropolitan Transport Corporation (Chennai) Ltd.
No.1, Pallavan Salai, Anna Salai
Chennai - 600 002. ... Petitioner

Vs

The General Secretary
Managara Pokkuvarathu Oozhiyar Sangam (CITU)
Regn. No.73/MDS Inaippu
No.2, Pallavan Salai
Kalaiaranga Valagam
Chennai - 600 002.

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the Principal Labour Court pertaining to its proceedings in O.P.No.43 of 2023 dated 20.10.2023 passed by the III Additional Labour Court, Chennai and quash the same and consequently confirm the order of punishment dated 28.05.2015 passed by the petitioner Management.



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For Petitioner : Mr.A.Vinothraj

ORDER

Challenging the order passed in O.P.No.43 of 2023 by the III Additional Labour Court, Chennai, the Management-Corporation is before this Court.

2.The brief facts proceeding to the filing of this writ petition are as follows :

- a. One E.Shanmugam, who is the driver in the Metropolitan Transport Corporation (Chennai) Ltd., the petitioner herein, was also a member of the petitioner-Union. On 28.02.2014 at 9.20 a.m., while he was driving the bus bearing No.ADI 2244, the accident had occurred when a cyclist who was turning from left side to right side, had suddenly come in front of the bus and the said Shanmugam in order to avoid the collision, had turned the bus towards the left side, unfortunately, the right side bumper of the bus had hit the cyclist, and he had fallen down and sustained head injuries. Immediately, he was taken to the hospital where he was declared dead. Accusing that the accident had happened



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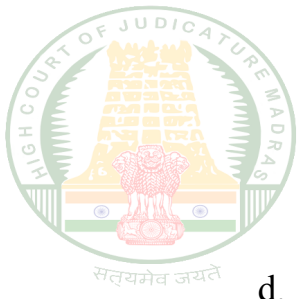
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only on account of the negligence of Shanmugam, a charge memo dated 04.04.2014 was issued to him and charges framed against him are as below:

(i) On 28.02.2014, the driver Thiru.E.Shanmugam while driving the bus to Saidapet, near VHS Hospital when trying to overtake a cyclist very closely, the front right bumper of the bus hit on the cyclist, thus causing death to him, and hence Thiru.E.Shanmugam charged under the Certified Standing Order in Rule 25 (XXVII);

(ii) By causing the accident, the driver Thiru.E.Shanmugam has caused financial loss to the corporation and inconvenience to the passengers in the bus and hence, charged under the Certified Standing Order in Rule 25 (XLiii).

- b. The petitioner-Corporation had conducted a domestic enquiry against Shanmugam and the enquiry officer had concluded the charges as proved and ultimately, Shanmugam was dismissed from service, for which, he was issued with a show cause notice.
- c. Thereafter, he had given his explanation which was considered by the Management and by order dated 28.05.2015, the punishment of dismissal was modified to one that his annual increment was postponed for three years with cumulative effect and treating his



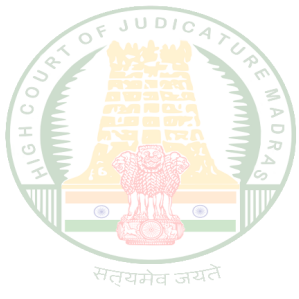
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suspension period as leave on his credit.

- d. Challenging the said order, Shanmugam had preferred an appeal before the Managing Director of the petitioner-Corporation and the same has not been considered.
- e. The conciliation proceedings initiated before the Conciliation Officer also had ended in failure.
- f. Thereafter, a reference was made under Sec.2(k) of the Industrial Dispute Act, in pursuance of the industrial dispute raised by the respondent Union, and the matter was referred to the III Additional Labour Court in O.P.No.43 of 2023.
- g. The Union in the said O.P., had challenged the order passed by the petitioner-Management contending that during domestic enquiry, sufficient opportunity was not given to driver Shanmugam to defend his case. That part, the conductor who was an eyewitness to the accident was not examined, but the investigating officer, who was not an eyewitness to the accident was examined on the side of the respondent-Management. The enquiry officer without taking into consideration all these facts, has concluded in his report that the charges framed against driver Shanmugam, are proved. Further, driver



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Shanmugam has been acquitted in a criminal case in C.C.No,2185/2015, which was filed before the IV Metropolitan Magistrate Court, Saidapet, Chennai, with regard to the accident.

Therefore, the respondent-Union had sought to have the punishment be set aside.

3. The petitioner-Management would submit that the accident had occurred only on account of the negligent act of Shanmugam and the domestic enquiry was conducted after following the principles of natural justice. Further the Corporation had modified its earlier decision of dismissal to one imposing punishment by postponing his annual increment for three years with cumulative effect. The Corporation would also allege that the O.P. has been filed belatedly, nearly after 9 years after the passing of the dismissal order.

4. The III Additional Labour Court, Chennai by her order dated 20.10.2023, has modified the punishment to one where the annual increment of driver Shanmugam was postponed to one year with cumulative effect instead of postponement of his annual increment for three years with



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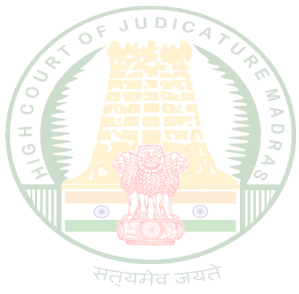
cumulative effect as imposed by the Corporation. Further, it directed to treat the period of suspension of driver Shanmugam as duty period instead of leave at his credit.

5. Challenging the said order of the III Additional Labour Court, the Corporation is before this Court.

6. The contention of the petitioner-Corporation is that the reference to the Labour Court was only to decide whether the order of punishment imposed by the Management is justifiable or not, and therefore, the impugned order of the Labour Court modifying the order of the Corporation, is beyond the terms of reference.

7. Heard the learned counsel for the petitioner.

8. A mere perusal of the reference would clearly indicate that not only the reference has been made to decide whether the punishment imposed was reasonable and justifiable, but also for passing necessary orders thereafter. The reference would read as follows :



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Demand No.1:-

Whether the claim of the petitioner union to rescind the order of the respondent management dated 28.05.2015 postponing the annual increment of Thiru.E.Shanmugam, Driver (Emp.No.D56018) for three years with cumulative effect, is justifiable and for necessary orders.

Demand No.2:-

Whether the claim of the petitioner union to treat the suspension period of Thiru.E.Shanmugam, Driver (Emp.No.D56018) as period on duty, is justifiable and for necessary orders.

9. Therefore, the ground on which this writ petition has been filed has to be rejected. The Labour Court has taken into consideration the manner in which the accident had occurred to come to the conclusion as to whether the said driver Shanmugam can be held to be negligent in performing his duties. It is seen that to prove the negligence of the driver, neither the passenger nor the conductor of the bus, who were there at the time of accident, were not examined. The conductor of the bus would be the best person to give his evidence as to whether there was negligence on the part of driver Shanmugam. Therefore, non-examination of the conductor is fatal to the case and adverse inference has to be drawn for the sake. Further the said



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Shanmugam has been acquitted in the criminal proceedings pending before the criminal Court. Therefore, the Presiding Officer of the III Additional Labour Court, Chennai, has decided to modify the punishment imposed on driver Shanmugam by the Corporation. I see no reasons to interfere with the orders of the learned III Additional Labour Court, Chennai, dated 20.10.2023 in O.P.No.43 of 2023.

10. The writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Neutral Citation : Yes / No
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