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W.P.No.25421 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2025

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

W.P.No.25421 of 2022
and
W.M.P.No.24402 of 2022

The Management,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangalore High Ways,
Kancheepuram – 631 552

.... Petitioner

Vs

1.The Special Deputy Commissioner of Labour,
D.M.S.Complex,
Chennai – 600 006.

M.Manmadha (Deceased)
Driver No.41398.

2. Rajathi
3. Loganayaki
4. Bharath
5. Prabhu
6. Suriyaraj

.... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the order passed by the Special Joint Commissioner for Labour, Chennai, dated 26.12.2017 made in A.P.No.89 of 2014 and quash the same.

For Petitioner : Mr.M.Aswin



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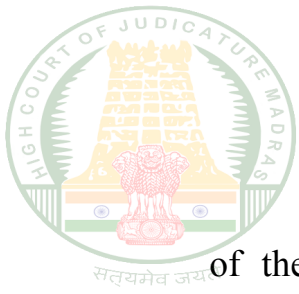
For R1 : Mr.E.P.Senniyangiri,
Government Advocate

For R2 to R6 : Mr.S.Ravi

ORDER

This Writ Petition has been filed to quash the impugned order dated 26.12.2017 passed by the first respondent in A.P.No.89 of 2014, thereby rejecting the approval petition filed by the Management seeking approval for the dismissal action taken against the deceased driver.

2. The deceased was employed as a driver under the petitioner's Management. On 01.12.2012, while he was driving the bus bearing Registration No.TN-21-N-1522, near Illayanar Kuppam, at about 5.45. p.m., he dashed against the bullock cart. Due to his rash and negligent driving, one person and two bullocks died in the said accident. Consequently, a charge memo was issued to the deceased on 15.01.2013 and the same was duly replied by the deceased. Being not satisfied with the explanation, a domestic enquiry was conducted. In the domestic enquiry proceedings, the deceased also participated. Finally, the Enquiry Officer submitted a report stating that the charges against the deceased as proved. Thereafter, after furnishing the enquiry report, an explanation was called for from the deceased. The deceased submitted his explanation and on receipt



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of the explanation, the Management passed an order of removal from service.

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3. Subsequently, the petitioner filed an approval petition along with all the relevant documents before the first respondent. However, the same was rejected on the ground that the enquiry proceedings were not furnished. As a result, the first respondent was unable to determine whether the principles of natural justice were followed and whether a prima facie case had been made out based on the acceptable evidence. Aggrieved by the said order, the Management preferred the present writ petition.

4. The learned counsel appearing for the petitioner would submit that the deceased, by his negligent act, dashed against the bullock cart, resulting in the death of one person and also causing damage to the bullock cart and bullocks also died on the spot. Owing to the said misconduct, a charge memo was issued to the deceased and enquiry proceedings were initiated after following all the legal procedures. Upon conclusion of the enquiry, the punishment of removal from service was ordered by the first respondent. Thereafter, an approval petition was filed before the first respondent along with all the relevant documents. However,



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the first respondent, without appreciating the records, simply rejected the approval petition on the ground that the enquiry proceedings were not furnished, thereby found out a prima facie case could not be made out as to whether the principles of natural justice had been followed. Therefore, the above said findings of the first respondent are not acceptable, as even if certain documents were not produced, the first respondent ought to have called for the documents, which were not produced. The first respondent, without doing the same, simply dismissed the petition. Hence, the impugned order passed by the first respondent is liable to be quashed.

5. The learned counsel appearing for the legal heirs of the deceased workman viz., the respondents 2 to 6, would submit that the deceased was served with a memo for the accident that occurred on 01.12.2012 and also submitted his explanation. However, without considering the explanation, the Management proceeded to initiate a domestic enquiry. During the enquiry, no sufficient evidence were produced to prove the negligence on the part of the deceased. The Management examined an Assistant Engineer, who was no way connected with the said accident. The said witness was never witnessed the accident nor was a passenger in the bus involved in the alleged occurrence. Therefore, there is



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no prima facie case made out based on the acceptable evidence. Moreover, the petitioner failed to produce the enquiry proceedings before the first respondent, as a result of which the first respondent was unable to determine whether the principles of natural justice was followed or not. Therefore, the order passed by the first respondent is in accordance with law.

6. Further, it is submitted that the deceased workman died on 18.01.2017 during the pendency of the approval petition. However, the order was passed on 26.12.2017. The respondents 2 to 6 have already filed a computation petition in C.P.No.130 of 2018 and the same was allowed on 28.06.2019. However, the petitioner did not challenge the order immediately and filed the present writ petition only in the month of September 2022, after a lapse of nearly five years. Therefore, there is a delay and the same has not been properly explained and on this ground, also the writ petition is liable to be dismissed.

7. Heard the learned counsel appearing on either side and perused the materials available on record.



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8. A perusal of the records reveals that the enquiry proceedings were conducted after affording an opportunity to the deceased workman. Pursuant to the acceptance of the enquiry report, the petitioner ordered punishment of removal from service and thereafter, filed an approval petition before the first respondent. However, the petitioner failed to produce the enquiry proceedings along with the approval petition. As rightly observed by the first respondent, in the absence of the enquiry proceedings, it was not possible to ascertain whether a prima facie case had been made out based on the acceptable evidence and whether the principles of natural justice had been followed or not. Therefore, the first respondent rejected the approval petition.

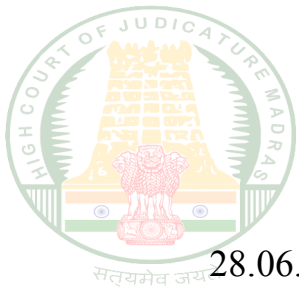
9. The main contention raised by the learned counsel for the petitioner is that, once the Tribunal found that the enquiry proceedings were not produced along with the approval petition, the Tribunal ought to have called for the same before arriving at a conclusion. However, without doing the same, simply dismissed the petition. In this context, it is to be noted that the dismissal order was passed on 26.04.2014 and the application was filed on 26.04.2014. The order was passed in favour of the petitioner. Once the petitioner produced the documents along with the approval petition, it is



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need to produce all the documents. In the present case, the enquiry proceedings were not produced. Though the approval petition was filed in the month of April, 2014 and the final order was passed on 26.12.2017, no steps were taken by the petitioner in the meantime to file or produce the enquiry proceedings. The Tribunal has failed to call for the proceedings, the petitioner has also not taken any steps to produce the enquiry proceedings. Therefore, the findings of the Tribunal are acceptable.

10. Apart from that, there is a delay in filing the present writ petition. The order passed by the first respondent is dated 26.12.2017, whereas the writ petition was filed in the month of September 2022. Therefore, there is a delay of nearly five years. Therefore, the learned counsel for the respondents has rightly contended that the writ petition is liable to be dismissed on the ground of delay and laches. Moreover, it is to be noted that the delinquent employee died after filing the application for approval, and now the legal heirs of the deceased are pursuing the matter on his behalf. In such circumstances, it would not be appropriate to accept the grounds raised by the petitioner, after such a prolonged delay. Moreover, based on the award, the legal heirs of the deceased workman had filed a computation petition in C.P.No.130 of 2018 and the same was allowed on



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28.06.2019.

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11. In view of the above discussions, this Court is of the considered view that the petitioner is not entitled for any relief. Thus, the writ petition is devoid of merits and is liable to be dismissed. The petitioner is directed to disburse the terminal benefits due to the legal heirs of the deceased workman within a period of three (3) months from the date of receipt of a copy of this order. Failing which, the petitioner shall be liable to pay penal interest at the rate of 18% per annum from the date of this order.

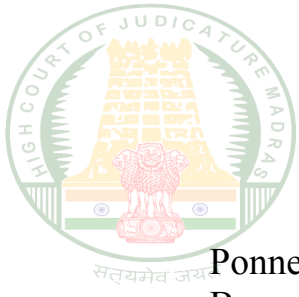
12. In the result, this Writ Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

17.06.2025

Speaking/Non Speaking
Index : Yes / No
Internet : Yes / No
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To

1. The Management,
Tamil Nadu State Transport Corporation (VPM) Ltd.,
Kancheepuram Region,



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Ponnerikarai,
Bangalore High Ways,
Kancheepuram – 631 552

2. The Special Deputy Commissioner of Labour,
D.M.S.Complex,
Chennai – 600 006.

3. The Public Prosecutor,
High Court, Madras.

P. DHANABAL, J.,

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