



W.P.No.29719 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2025

CORAM

THE HONOURABLE MR. JUSTICE P. DHANABAL

W.P No.29719 of 2023

The Management of
Tamil Nadu State Transport
Corporation (Kovai) Ltd.,
No.37, Mettupalayam Road,
Coimbatore-641 043.

...Petitioner

Vs.

General Secretary,
Tamil Nadu State Transport,
Seerudai Paniyalar Thozhir Sangam,
(Regn No.1444)
No.610/200, Periya Naicken Palayam
SRKV Post, Coimbatore - 641 020

...Respondent

Prayer: The Writ Petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records relating to the Award made in I.D. No.118 of 2019 dated 06.02.2023 on the file of the Principal Labour Court, Coimbatore and quash the same.

For Petitioner : Mr.T. Chandrasekaran

For Respondent : Mr.V.Ajoy Khose



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ORDER

The Writ petition has been filed by the petitioner Management to quash the award passed in I.D. No.118 of 2019 dated 06.02.2023 on the file of the Principal Labour Court, Coimbatore.

2. The short facts necessary to dispose of the writ petition are as follows:

The Member of the respondent Union namely S. Sasikumar was appointed as Reserve Driver in the petitioner Corporation on 24.12.2015. On 27.01.2017, when he was driving the bus bearing Registration No.TN-38-N-2433 at about 8.15 p.m. from Bathrakaliamman Temple to Mettupalayam, he dashed against a two wheeler bearing Registration No.TN-37-AT-8829. Due to which, the rider of the two wheeler died on the spot and the pillion rider sustained grievous injuries and also caused damage to the petitioner's vehicle. Therefore, the Management issued a Charge Memo to the driver and he also gave his explanation. Being not satisfied with the explanation, the Management conducted a domestic enquiry and as per the enquiry report, the charges levelled against the delinquent were proved. Thereafter, the Disciplinary Authority awarded a punishment of extending his reserve driver



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post for a period of two years by order dated 31.08.2017. Against the award of punishment, the respondent Union raised an industrial dispute in I.D. No.118 of 2019 before the Principal Labour Court, Coimbatore and the same was allowed by setting aside the punishment awarded by the Disciplinary Authority. Aggrieved over the said order, the present Writ petition has been filed by the Management.

3. The learned counsel appearing for the petitioner Management would submit that the Member of the respondent Union namely S. Sasikumar was the Reserve driver of the petitioner Management and when he was on duty on 27.01.2017, at about 8.15 p.m., he caused an accident due to which the rider of the two wheeler died on the spot and the pillion rider sustained grievous injuries and also caused damage to the petitioner's vehicle. Therefore, a charge memo was issued to him on 31.03.2017 and he also submitted his explanation. Being not satisfied with the explanation, the Management conducted a domestic enquiry and as per the findings rendered by the Enquiry Officer, it is proved that the accident is due to the negligence of the driver and thereafter, once again, the delinquent was issued a second Show Cause Notice seeking for his explanation.



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4. It is further submitted by the learned counsel for the petitioner that taking into consideration of the enquiry report and explanation of the Workman, the Disciplinary Authority awarded a punishment of extending his reserve driver post for a period of two years by order dated 31.08.2017. Against which, the respondent Union raised an industrial dispute before the Labour Court. During the Trial proceedings, on the side of Management, they examined the witnesses and marked 9 documents. Without considering those evidences, the Labour Court erroneously allowed the Industrial dispute and set aside the punishment awarded by the Management holding that before the MCOP proceedings, the Management has taken stand no negligence on the part of Bus Driver, but in the Disciplinary proceedings taken a stand for the negligence is on the part of the Bus Driver. Further, there was no clause in the standing order to extend the period of reserve driver and no eyewitness was examined to prove the negligence on the part of the Workman. Therefore, the order passed by the Labour Court is liable to be set aside.

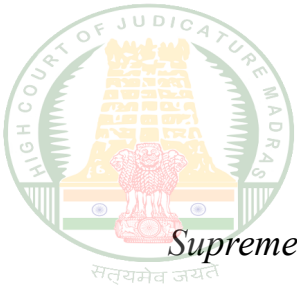
5. The learned counsel appearing for the respondent Union would submit that the alleged accident was occurred solely due to the negligence on the part of the rider of the two wheeler. Further, the punishment awarded by



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the Management is not in the clause of the standing order to extend the reserve driver period. However, the Management issued a Charge Memo against the driver of the bus and he also submitted his explanation. But inspite of that, the Management conducted a domestic enquiry without following the principles of natural justice. The Enquiry Officer also without any prima facie evidence, rendered findings that the charges levelled against the delinquent were proved. The Disciplinary Authority also without verifying the materials, erroneously accepted the enquiry report and awarded a punishment of extending his reserve driver post for a further period of two years which is not in the clause of the standing order. Therefore, the Labour Court after considering the evidences adduced on both sides, has correctly allowed the petition and set aside the punishment awarded by the Management. Neither before the Enquiry Officer nor before the Labour Court, the Management examine any eye witness to the occurrence. Therefore, there is no any proof to prove the negligence on the part of the driver of the bus and the Labour Court has passed a reasoned order and the same has to be confirmed. Therefore, the present Writ petition is liable to be dismissed. In support of his argument, he relied upon the Judgments of the Supreme Court in the case of (i) *Maharashtra State Road Transport Corporation Vs. Mahadeo Krishna Naik reported in (2025) 4*



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Supreme Court cases 321 and (ii) Vijay Singh Vs. State of Uttar Pradesh and others reported in (2012) 5 Supreme Court Cases 242.

6. Heard both sides and perused the entire materials available on record.

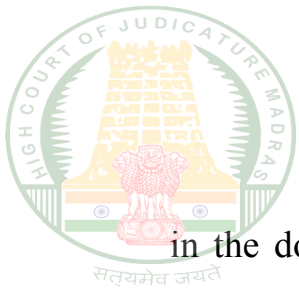
7. In this case, it is an admitted fact that a domestic enquiry was conducted by giving opportunity to the Workman. According to the petitioner Management, due to the negligence on the part of the driver of the bus, an accident was occurred on 27.01.2017, thereby, they issued a Charge Memo on the driver and before the Enquiry Officer, they examined witnesses and as per his findings, the negligence was proved against the driver of the bus. Per contra, according to the respondent Union, it is stated that no eye witness was examined and the witnesses examined on the side of the Management is no way connected with the said accident and he is not an eye witness. Further, the punishment of extending his reserve driver post for a further two years is not in the clause of the standing order.



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8. This Court also perused the entire records. On a perusal of the

records, it is seen that the Management has not examined any eye witness and the witness examined on the side of the Management is not an eye witness to the said occurrence of accident. The Management failed to examine either any one of the passengers who travelled in the bus or the Conductor of the bus, who was on duty on the date of the accident. Therefore, there is no any prima facie evidence to prove the negligence on the part of the driver of the bus based on the acceptable evidence. The findings of the Enquiry Officer that 'the charges against the delinquent were proved', is not acceptable without any prima facie evidence. Even before the Labour Court, the Management failed to examine any eye witness to the occurrence to prove the negligence on the part of the driver of the bus. The Labour Court also in its order, after considering the documents submitted by the Management side, correctly held that the charges against the delinquent were not proved. Moreover, the Labour Court, while passing the preliminary Award rendered findings that the Management failed to examine any eye witness, even after that, the management failed to examine any eye witness before the Labour Court and further, before the MCOP Tribunal, the Management had taken a plea that there is no negligence on the part of the driver of the bus, whereas, per contra,



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in the domestic enquiry, they levelled charges against the delinquent stating that there is a negligence on the part of the driver of the bus.

9. In this context, the Hon'ble Supreme Court in a case in

Maharashtra State Road Transport Corporation vs. Mahadeo Krishna Naik reported in (2025) 4 Supreme Court Cases 321, held in para 32 as follows:-

"32. Even if we keep the award of MACT aside, it is clear from the pleadings of the Corporation before MACT and the Labour Court that the Corporation has attempted to get the best of both worlds. The contradictory nature of the stances taken by the Corporation before the Labour Court and MACT reeks of the Corporation trying to approbate and reprobate on the same issue. It is bound to cause immense prejudice to Mahadeo if the Corporation is allowed to reverse its stance to suit its own interests".

10. Further, in support of the respondent's contention regarding the punishment of extending his reserve driver post for a further two years is not in the clause of the standing order, he relied upon the Judgment of the Hon'ble Supreme Court in a case in ***Vijay Singh Vs. State of Uttar Pradesh and others, reported in (2012) 5 Supreme Court Cases 242***, wherein it is held in para 15 as follows:-

"15. Imposing the punishment for a proved delinquency is regulated and controlled by the statutory rules. Therefore, while performing the quasi-judicial functions, the authority is not



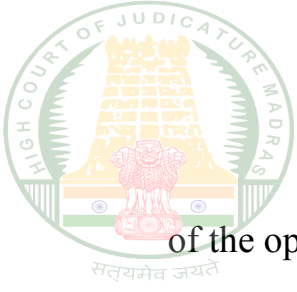
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permitted to ignore the statutory rules under which punishment is to be imposed. The disciplinary authority is bound to give strict adherence to the said rules. Thus the order of the punishment being outside the purview of the statutory rules is a nullity and cannot be enforced against the appellant."

11. In the case on hand also, the petitioner Management, before the Tribunal, had taken a plea that there is no negligence on the part of the driver, whereas before the Disciplinary Authority, they have pleaded about the negligence on the part of the driver of the bus and the accident occurred owing to the negligence on the part of the driver. Therefore, the Management cannot take contradictory nature of stances. They cannot reverse stance to suit its own interests. Further, the Management without adhering the rules, they have given punishment to the Workman which is not in the clause of the standing order. Therefore, the Labour court, after elaborate discussions, passed a reasoned order and correctly set aside the punishment awarded by the Management. Therefore, the order passed by the Labour Court is in order and there is no any perversity or illegality found and therefore, it does not warrant interference.

12. Therefore, in view of the above said discussions, this Court is



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of the opinion that this petition has no merits and deserves to be dismissed.

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13. Accordingly, this Writ petition is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Lbm

To:

1. The Presiding Officer,
The Principal Labour Court,
Coimbatore.

2. General Secretary,
Tamil Nadu State Transport,
Seerudai Paniyalar Thozhir Sangam,
(Regn No.1444)
No.610/200, Periya Naicken Palayam
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P. DHANABAL. J.,



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