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W.P. No.28598 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.28598 of 2023

and

W.M.P. No.28146 of 2023

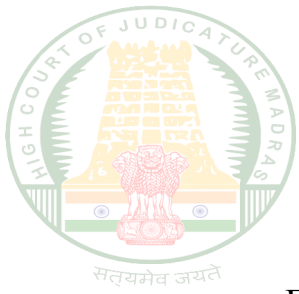
The Management of
Tamil Nadu State Transport
Corporation (Coimbatore Limited),
No.37, Mettupalayam Road,
Coimbatore - 641 043. .. Petitioner

vs.

The General Secretary,
Tamil Nadu Arasu Pokkuvarathu
Seerudai Paniyalar Thozhir Sangam,
(Registration No.1440),
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.116 of 2019 dated 16.06.2023 on the file of the Principal Labour Court, Coimbatore and quash the same.

For Petitioner : Mr. T. Chandrasekaran



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W.P. No.28598 of 2023

For Respondent : Ms. G.k. Dharshini
for Mr. V.Ajay Ghose.

ORDER

This Writ petition has been filed by the petitioner Management to quash the award passed in I.D. No.116 of 2019 dated 16.06.2023 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 R. Kulathaivelu was working as a Driver in the petitioner Corporation in Ondiputhur-I Branch. On 10.04.2015, when he was driving the bus bearing Registration No.TN33 N 1770 at about 12.50 p.m. from Gandhipuram to Idayarpalayam and when he was nearing Hindustan Travels near Kannaya Wave Bridge, he caused an accident. Therefore, the Management issued a Charge Memo dated 18.05.2015 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 driver were proved. Thereafter, the petitioner Management issued a Show Cause Notice and after giving opportunity to the driver, the Disciplinary Authority awarded a



W.P. No.28598 of 2025

WEB COPY

punishment of postponement of annual increment for a period of 2 years with cumulative effect and the suspension period from 11.04.2015 to 18.05.2015 was treated as 'leave on his credit' through an order dated 21.06.2016. Against which, the respondent Union raised an industrial dispute in I.D. No.116 of 2019 before the Principal Labour Court, Coimbatore and the same was allowed by setting aside the punishment awarded by the Disciplinary Authority and directed the petitioner Management to pay the monetary and other lawful benefits to the respondent arising out of the dismissal order. 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 when the driver of the bus, who is the Member of the respondent Union namely R. Kulanthaivelu was on duty by driving the bus bearing Registration No.TN33-N-1770 on 10.04.2015, he caused an accident due to his rash and negligent driving. Therefore, a charge memo was issued to him 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, the charges against the driver were

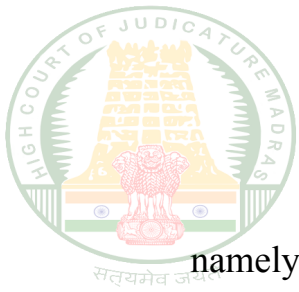


W.P. No.28598 of 2025

WEB COPY

proved and therefore, the Disciplinary Authority awarded a punishment of postponement of annual increment for a period of 2 years with cumulative effect and also the period of suspension was treated as 'leave on his credit'. Against which, the respondent Union raised an industrial dispute before the Principal Labour Court, Coimbatore in I.D. No.116 of 2019. Before the Labour Court, on the side of Management, they examined one witness and marked 13 documents. On the side of the driver, no oral or documentary evidences were adduced. Without considering the evidences adduced on the side of Management, the Labour Court erroneously allowed the industrial dispute and set aside the punishment awarded by the Management and directed the petitioner to pay monetary benefits to the driver of the bus. The above said order of the Labour Court is against law as the Labour Court failed to consider the gravity of the charges. The charges were proved through sufficient evidences. Therefore, the order passed by the Labour Court is erroneous and is liable to be set aside.

3. The learned counsel appearing for the respondent Union would submit that on 10.04.2015, while the Member of the respondent Union



W.P. No.28598 of 2025

WEB COPY

namely R. Kulanthaivelu was on duty, driving the bus bearing Registration No.TN33-N-1770, a rider of the motor cycle, due to his negligence, dashed against the bus and sustained injuries and died on the spot. Thereafter, the Management issued a Charge Memo against the driver of the bus and he also submitted his explanation. Being not satisfied with the reply submitted by the driver, the Management conducted a domestic enquiry. The Enquiry Officer rendered findings that the charges were proved against the driver. The Disciplinary Authority awarded a punishment of postponement of annual increment for a period of 2 years with cumulative effect and treated the period of suspension as leave. The said punishment order was challenged by the repondent before the Labour Court. The Labour Court has allowed the petition on the ground that the Management has not examined any eye witness to prove the negligence on the part of the bus driver and the petitioner also before the Motor Accident Tribunal had taken a stand that the accident took place due to the negligence on the part of the rider of the motorcycle, whereas in the Disciplinary proceedings, they had taken a contra stand. Therefore, there are no materials to prove the negligence on the part of the driver. Therefore, the Labour Court has passed a reasoned order and the same has to be confirmed. Therefore, the present Writ petition is liable to be



W.P. No.28598 of 2025

dismissed.

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

5. In this case, it is an admitted fact that a domestic enquiry was conducted by giving opportunity to the driver. According to the petitioner Management, due to the negligence on the part of the driver of the bus, an accident was occurred on 10.04.2015, 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, no eye witness was examined and the witness examined on the side of the Management is no way connected with the accident and he is not an eye witness.

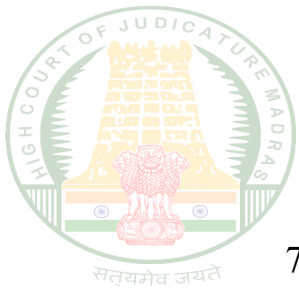
6. This Court also perused the entire records. On a perusal of the records, it is seen that the Management has not examined any eye witness to the occurrence and the witness examined on the side of the Management is not an eye witness to the occurrence. The Management failed to examine either



W.P. No.28598 of 2025

WEB COPY

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. Therefore, the punishment awarded by the Authority based on the enquiry report is not acceptable. 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, while so, even after that, the management failed to examine any eye witness before the Labour Court. Moreover, 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, 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.



W.P. No.28598 of 2025

WEB COPY

7. 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".

8. 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 taken a stand that the negligence was on the part of the driver of the bus and the accident occurred owing to the negligence on the part of the bus driver. Therefore, the Management cannot take contradictory nature of stances. They cannot reverse stance to suit its own interests. 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.

9. Thereore in view of the above said discussions, this Court is of the



W.P. No.28598 of 2025

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

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

08.07.2025

Index : Yes/No.

Speaking order/non-speaking order
mjs

To

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

2. The General Secretary,
Tamil Nadu Arasu Pokkuvarathu
Seerudai Paniyalar Thozhir Sangam,
(Registration No.1440),
No.610/200, Periya Naicken Palayam,
SRKV Post, Coimbatore - 641 020.

P. DHANABAL, J.,



WEB COPY



W.P. No.28598 of 2023

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W.P. No.28598 of 2023

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