



W.P.No.38996 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.38996 of 2024

and

W.M.P.No. 42237 of 2024

The Management,
Tamil Nadu State Transport Corporation,
(Coimbatore Division - 1),
No.37, Mettupalayam Salai,
Coimbatore - 641 043.

... Petitioner

Vs

Senthilkumar

... Respondent

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorari, to call for the records in ID No.416 of 2002 on the file of the Principal Labour Court, Coimbatore dated 14.12.2020 and quash the same.

For Petitioner : Mr.A.Vinothraj



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ORDER

This writ petition is filed challenging the award of the Labour Court made in I.D.No. 416 of 2002 dated 14.12.2020.

2. Heard Mr.A.Vinothraj, the learned counsel appearing for the petitioner.

3. The learned counsel appearing for the petitioner would submit that the Labour Court ought to have seen that when the charges have been duly proved in the domestic enquiry, it cannot reconsider the issue as if it were an appellate Court and come to a different conclusion. When the workman has been found guilty of negligent and rash driving, thereby causing a huge loss to the corporation, the Labour Court ought not to have passed the impugned award.

4. I have considered the said submission made by the learned counsel for the petitioner and perused the material records of the case.



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for the following reasons:-

(i) As against the award of the Labour Court passed in the year 2020, the writ petition is only filed in the year 2024 and as such, the writ petition is hit by delay and latches

(ii) Even otherwise, the Labour Court considered two aspects. The original charge against the workman was that he came from behind and hit the cyclist, causing the death of the 12 year old child. However, the Labour Court observed that even in the evidence, the very important fact as to the directions of the cyclist as well as the bus, whether they came from East to West or West to East, had been altered and changed. Therefore, the facts mentioned in the charges itself become questionable.

(iii) Apart from this, the Labour Court considered Ex.M11, where the Branch Manager himself considered the entire aspect and concluded that the version given by the driver with reference to the accident in question was acceptable. The Branch Manager stated that the accident occurred because the cycle emerged suddenly from behind the earlier bus and from a cross Road. If the cyclist had ventured into the road a few seconds later, after the earlier bus had passed, the accident could have been avoided. The said finding of the Branch Manager



dated 03.09.2001 was also taken into consideration by the Labour Court. The Labour Court in exercise of powers under Section 11A is entitled to reappraise the evidence to determine prime facie whether there is some evidence on record to prove the charge.

(iv) In the instant case, upon appreciation of the evidence, the Labour Court found that the charge itself was incorrect and that the respondent management had on an earlier occasion, accepted the valid explanation given by the driver. In that view of the matter, it cannot be said that in this case, the Labour Court has acted as an appellate authority. The Labour Court has only exercised the power under Section 11A in the proper perspective and concluded that there is no proof for the charge, thus intervening in the matter of non-employment. The Labour Court itself has granted only 50% of the back wages.

6. Considering all the above, I am of the view that, this writ petition is without any merits. Accordingly, the writ petition stands dismissed. Consequently, connected miscellaneous petition is closed. No Costs.



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Neutral Citation: Yes/No

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D.BHARATHA CHAKRAVARTHY, J.

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