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W.P.No.29131 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.29131 of 2018

And

W.M.P.No.34066 of 2018

1.R.Devaraj (Died)

2.D.Ellammal

3.D.Gobinath

4.D.Hema @ Ramani

5.D.Kalamani

(P2 to P5 substituted as LR's of deceased
sole petitioner vide order dated 13.03.2023
made in W.M.P.No.2263 of 2023 in
W.P.No.29131 of 2018 by MSRJ)

... Petitioners

Vs.

M/s.Tamilnadu State Transport Corporation,
Salem Division, No.12,
Ramakrishnan Salai, Salem – 12.

... Respondent

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the proceedings of the Presiding Officer, Labour Court, Salem dated 20.01.2014 passed in I.D.No.10 of 2010 and quash the same and direct the respondent to settle all post retiral benefits due to the petitioner.

For Petitioners : Mr.K.Krishnamoorthy



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For Respondent : Mr.M.Aswin

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ORDER

This writ petition has been filed seeking issuance of Writ of Certiorarified Mandamus calling for the records of the proceedings of the Presiding Officer, Labour Court, Salem, dated 20.01.2014 passed in I.D.No.10 of 2010 and quash the same and direct the respondent to settle all post retiral benefits due to the petitioner.

2.The case of the petitioners is that the first petitioner joined the respondent Corporation on 26.11.1972 as Conductor and when he was working in Johnsonpet-2, Salem branch, he was assigned to conduct the bus from Arapaleeswarar Temple to Salem and on 13.11.2000 when the Checking Inspectors inspected the bus, it was alleged that the first petitioner received money from 5 passengers at the rate of Rs.2.50/- each and gave tickets which are valid from Semmedu to Arapaleeswarar Temple and based on the inspection report, the first petitioner was issued with a charge memo dated 16.11.2000 and after enquiry, he was dismissed from service vide order dated 03.01.2001 and challenging the same, the first petitioner filed W.P.No.5164 of 2001 and pursuant to the order of this Court dated 21.03.2001, the



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respondent called for explanation from the first petitioner and thereafter issued second show cause notice dated 01.06.2001 and thereafter vide letter dated 14.06.2001, dismissed the first petitioner from service and aggrieved by the same, the first petitioner raised industrial dispute in I.D.No.10 of 2010 seeking to reinstate him in service with continuity of service, backwages, all other attendant benefits and the Labour Court vide impugned order dismissed the industrial dispute. Hence this writ petition.

3.The learned counsel appearing for the petitioners submitted that during the pendency of this writ petition, the first petitioner who filed this writ petition died and hence his legal heirs are substituted as petitioners 2 to 5 in this writ petition. The learned counsel further submitted that due to ill health, the first petitioner was not able to raise the industrial dispute immediately. The learned counsel further submitted that the concerned passengers were not examined by the respondent before the Labour Court.

4.Per contra, the learned counsel appearing for the respondent submitted that admittedly, the order of dismissal was passed on 14.06.2001, however, the first petitioner raised industrial dispute only



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during the year 2010 and the first petitioner did not give the reasons

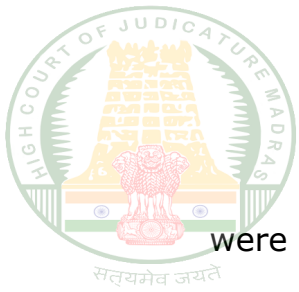
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for delay in raising the industrial dispute and further submitted that the impugned order was passed during the year 2014 and this writ petition also was filed by the first petitioner after a delay of four years and hence, this writ petition has to be dismissed on the ground of delay and laches.

5.Heard the arguments advanced on either side and perused the materials available on record.

6.The exhibits marked by the respondent before the Labour Court reveal that the deceased first petitioner had mis-appropriated a sum of Rs.12.50/- and the records reveal that apart from this, the first petitioner has suffered 25 punishments and the same is not disputed by the petitioners. The main grievance of the petitioners is that the statement of the passengers have not been recorded.

7.In similar situation, the Hon'ble Apex Court in its decision reported in **(1977) 2 SCC 491 [State of Haryana and another vs. Rattan Singh]** held that merely because statements of passengers



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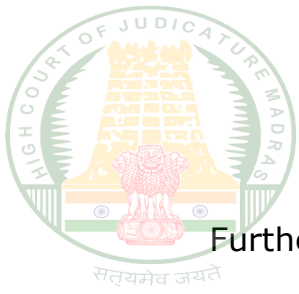
were not recorded, it will not vitiate the departmental proceedings.

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The relevant portion of the said decision reads as follows:

"5. Reliance was placed, as earlier stated, on the non-compliance with the departmental instruction that statements of passengers should be recorded by inspectors. These are instructions of prudence, not rules that bind or vitiate in the violation. In this case, the Inspector tried to get the statements but the passengers declined, the psychology of the latter in such circumstances being understandable, although may not be approved. We cannot hold that merely because statements of passengers were not recorded the order that followed was invalid. Likewise, the re-evaluation of the evidence on the strength of co-conductor's testimony is a matter not for the court but for the Administrative Tribunal. In conclusion, we do not think the courts below were right in overturning the finding of the domestic tribunal."

8. Therefore, in view of the aforesaid ratio, the non-recording of the statement of the passengers would not be fatal to the proceedings.



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Further, this Court has to consider only the perversity of the impugned award. The Labour Court after elaborately considering the evidence on record and the punishments suffered by the deceased petitioner and all the factual aspects has passed the impugned order, which does not suffer any perversity and warrants no interference.

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

27.03.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

- 1.The Presiding Officer,
Labour Court,
Salem.
- 2.Tamil Nadu State Transport Corporation,
Salem Division, No.12,
Ramakrishnan Salai,
Salem – 12.



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M.DHANDAPANI,J.
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