



W.P(MD)No.3311 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.3311 of 2021
and
W.M.P(MD)No.2659 of 2021

The Management,
Tamil Nadu State Transport Corporation
(Tirunelveli) Limited,
Ranithottam,
Nagercoil,
Kanyakumari District.

... Petitioner

Vs.

The General Secretary,
Tamil Nadu State Transport Employees
Union 4KKM (CITU),
Ranithottam,
Nagercoil,
Kanyakumari District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, by calling for the records relating to the impugned order passed by the Labour Court, Tirunelveli, dated 20.12.2019 passed in I.D.No.75 of 2017 and to pass such further or other orders as this Court.



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For Petitioner : Mr.R.Rajamohan
For Respondent : Mr.S.Arunachalam

ORDER

The Management of Tamil Nadu State Transport Corporation, Tirunelveli Division, Nagercoil Region has filed the present writ petition challenging the award of the Labour Court, wherein, the Labour Court has set aside the punishment imposed upon the driver.

2. One Mr.T.Kumaresan, who was working as a driver in the petitioner Transport Corporation was issued with a charge memo on 23.05.2013 for being involved in a fatal accident. Being not satisfied with the explanation submitted by him, a domestic enquiry was conducted and ultimately was found that the charges are against him stood proved. The Management has chosen to impose a punishment of postponement of increment for a period of one year with cumulative effect.

3. This order was challenged by the Union under Section 2(k) of the Industrial Disputes Act, 1947 before the Labour Court. The Labour Court after considering the evidence on either side has arrived at a finding that the enquiry



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report is perverse in nature and the accident has not taken place due to the negligence on the part of the driver. The Labour Court has proceeded to set aside the punishment imposed by the Management. Challenging the same, the present writ petition has been filed by the Transport Corporation.

4. According to the learned Counsel appearing for the petitioner, the accident has taken place only due to the negligence on the part of the driver. A passenger, who was standing in the front door was thrown out of the bus and she had sustained injuries. If the driver had been careful enough, such an accident could have been avoided. He further submitted that the injured passenger had filed a claim petition before the Motor Accident Claims Tribunal, Kuzhithurai and the Management had incurred huge financial loss due to the negligence on the part of the driver.

5. Per contra, the learned Counsel appearing for the workman relying upon Exhibit W.10 submitted that the Management has filed a counter in the Motor Accident Claims Petition that the driver is not responsible for the accident and there was no negligence on the part of the driver. He further pointed out that even in the domestic enquiry report, 50% of the negligence has



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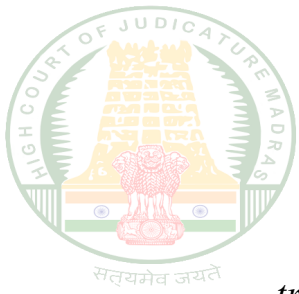
been attributed to the passenger. In such circumstances, the enquiry officer could not have arrived at a finding that the charges as against the petitioner are proved. The Management ought not to have imposed a punishment of postponement of increment.

6. The learned Counsel appearing for the respondent also relied upon the judgment of the Hon'ble Supreme Court reported in **2025 (4) SCC 321 [Maharashtra State Road Transport Corporation Vs. Mahadeo Krishna Naik]** and contend that the Management cannot take contradictory stands.

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

8. Exhibit W.10, is the counter filed by the Transport Corporation before the Motor Accident Claims Tribunal, Kuzhithurai in M.C.O.P.No.84 of 2014, paragraph Nos.6 and 7 are extracted as follows:

"6. This respondent is not at all liable for the claim of the petitioner. This respondent was driving the vehicle in a normal speed after obeying all traffic rules. But the first petitioner was



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travelling in the bus by standing on the foot board and she herself fell down from the bus due to her negligence. So the question of rash and negligent driving of this respondent does not arise for consideration.

7. As the accident was occurred due to the negligence of the first petitioner herself the petitioners are not entitled to file this O.P and claim compensation. So the respondents 1 and 2 are not at all jointly or severally liable for the claim of the petitioners."

9. A perusal of this counter affidavit would clearly reveal that the Management has taken a specific stand that there was no negligence on the part of the driver and only the passenger was responsible for the accident.

10. In similar circumstances, the Hon'ble Supreme Court in a judgment reported in **2025 (4) SCC 321 [Maharashtra State Road Transport Corporation Vs. Mahadeo Krishna Naik]** has held that the Management cannot take contradictory stands. Paragraph Nos.30 and 32 of the said judgment are extracted as follows:

"30. The Corporation did not deliberately refer to the award of MACT at two different tiers, and thereby actively suppressed relevant material from a Court of law. We do not



propose to enter the arena of controversy as to whether the award of MACT is binding on the Labour Court. However, the Corporation could not have at any rate resiled from what it pleaded in its own written statement before MACT on a sworn affidavit and deliberately withhold the same. This Court has always taken a serious view against suppression of evidence in a judicial proceeding.

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."

11. The Labour Court has also arrived at a finding that the enquiry report is perverse in nature. Considering the counter filed by the Management before the Motor Accident Claims Tribunal and the judgment of the Hon'ble Supreme Court, this Court is of the considered opinion that the order of the Labour Court need not be interfered with. There are no merits in this writ petition. Hence, this



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Writ Petition stands dismissed. The authorities are directed to release the monetary benefits, within a period of twelve (12) weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

13.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

The General Secretary,
Tamil Nadu State Transport Employees
Union 4KKM (CITU),
Ranithottam,
Nagercoil,
Kanyakumari District.



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R.VIJAYAKUMAR, J.

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