



W.P(MD)No.9894 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.9894 of 2021 and
WMP(MD) No.7596 of 2021

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

Vs

The General Secretary,
Tamilnadu 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 17.02.2020 passed in I.D.No.117 of 2018.

For Petitioner : Mr.Rajamohan.R,
For Respondent : Mr.S.Arunachalam
Standing Counsel



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ORDER

The Management of the Tamil Nadu State Transport Corporation (Tirunelveli) Limited., Kanyakumari District has filed this writ petition as against the award passed by the Labour Court in ID No.117 of 2018, dated 17.02.2020.

2.The above industrial dispute was raised by the respondent Trade Union on behalf of one of its members, who has been imposed with a punishment of stoppage of increment for a period of three years with cumulative effect. When the said member/ a conductor, namely Rathinamani was on duty in the Transport Corporation of the petitioner Management in TN 74 N 326 in Route No. 37 A, from Nagercoil to Mannargudi, a lady passenger, who boarded the bus asked for a ticket to Suseendram. The conductor has replied the passenger that the particular bus was not going to Suseendram. Soon after his reply, the lady passenger got down from the bus through the front door of the bus, even without ascertaining



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as to whether the bus has started or not, due to which, she fell down and sustained grievous injuries. She was admitted in Asaripallam Hospital and took treatment. In view of the above accident, the Management has initiated a disciplinary proceedings as against the conductor and the driver of the bus bearing Reg.No.TN 74 N 326. In conclusion of the disciplinary proceedings, both the conductor and the driver were imposed with the punishment of stoppage of increment for a period of three years with cumulative effect. The Conductor has challenged the order of punishment before the Labour Court, Tirunelveli in I.D.No.117 of 2018, through the respondent Trade Union and the same was allowed by an order, dated 17.02.2020. However, the Industrial Dispute raised on behalf of the driver in I.D.No.18 of 2017 was dismissed by the Labour Court, by its order, dated 20.07.2017. The Management has now preferred this writ petition, as against the findings of the Labour Court in I.D.No.117 of 2018.



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3.The learned Standing Counsel appearing for the petitioner Management submits that it is not only a fault on the part of the driver and it is also negligence on the part of the conductor, due to which, an accident had occurred on 27.09.2009, wherein a lady passenger, who boarded the transport bus bearing registration number TN 74 N 326 has got down from the moving bus, fell down and also succumbed to injuries. The legal heirs of the deceased passenger have filed a claim petition before the Chief Judicial Magistrate Court, Nagercoil in MCOP No.70 of 2010 and the same was allowed, wherein, compensation of Rs.2,68,031/- was ordered. According to the learned Standing Counsel, in view of the negligence on the part of the driver and conductor of the Transport Corporation bus, the Management has suffered such a huge loss.

3.1.The learned Standing Counsel further submits that the punishment imposed on the driver has been confirmed by the Labour Court in ID.No.18 of 2017, however, the industrial dispute raised by the conductor in ID.No.117 of 2018 has been erroneously



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allowed by the Labour Court on surmises and conjectures. The learned counsel has also relied on the relevant portion of the order passed by the Labour Court in ID No.117 of 2018, which is extracted as under:-

"From the records it is seen that the passenger about to get down from the bus fully, but the driver operated the bus without ensuring the passenger get down fully from the bus. It is presumed that the petitioner is concerned after blowing the whistle, he might have issued the tickets to the other passengers. He never expected that the driver would accelerate the bus immediately before the passenger got down from the bus fully. Therefore, this Court does not find anything wrong on the side of the petitioner for the accident. The driver was already punished. Against the punishment, he filed I.D.No.18/2017 Ex.M4 and the same was dismissed and confirmed the punishment.

In the fact and circumstances of the case, the entire responsibility falls on the driver, who acted in negligent manner. As far as the accident is concerned the role of the petitioner is very limited one and beyond the scope. In fact he had done his duty cautiously but unexpectedly the driver of the bus moved the same without ensuring the passenger has got down fully or not."

3.2.According to the learned counsel, domestic enquiry was conducted in a proper manner, by issuing a charge memo, by



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providing an opportunity of hearing and also by furnishing the enquiry report and therefore, there is no violation of principles of natural justice in conducting the enquiry, thereby, the findings of the Labour Court on presumption and assumption cannot be justified. Therefore, the order of the Labour Court needs to be interfered with.

3.3.The other contention of the learned Standing Counsel is that the order of punishment was imposed in the year 2011 and it has also been implemented. Thereafter, the delinquent has also retired from service on his attaining the age of superannuation on 31.05.2018. Thereafter, the Trade Union has raised the Industrial Dispute in the year 2018 and the Labour Court has entertained the same, without ascertaining as to whether he was an employee at that relevant point of time. According to the learned Standing Counsel, as per Section 2(s) of the ID Act, he cannot be an employee at the time of raising the industrial dispute.



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4.The learned counsel for the Trade Union has made his submissions as under:-

- i. Even after the retirement of the employee, an Industrial Dispute can be raised by the Trade Union on behalf of its members/employees.
- ii. With regard to delay in raising the Industrial Dispute, there is no pleadings to that effect before the Labour Court and no issue has been framed and therefore, the petitioner Management cannot take this plea now. In this regard, the learned counsel has relied on the Judgment of the Honourable Supreme Court, reported in *Ajaib Singh Vs. Sirhind Co-operative Marketing cum Processing Service Society Limited* and another, reported in *(1999) 6 Supreme Court Cases, 82*. wherein, it was held that in the absence of any plea on behalf of the Management before the Labour Court with regard to delay, the workman cannot be deprived of the benefits under the Industrial Disputes Act merely on technicalities.



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- iii. It is the fault on the part of the passenger and the driver, for which, an onus cannot be fastened on the conductor. The driver of the bus has also been subjected for disciplinary proceedings and he was also imposed with the punishment. This order of punishment was also confirmed by the Labour Court.
- iv. Since the punishment imposed on the driver of the bus has been confirmed, the conductor cannot be fastened with any liability.
- v. The passenger, who has wrongly boarded the bus, has got down from the moving bus on her own, for which, the conductor cannot be held responsible.
- vi. In fact, there were 70 passengers in the bus on the date of accident. The conductor was issuing tickets to the other passengers and he is not expected to look after each and every passenger in the bus.
- vii. No eyewitness has been examined during the domestic enquiry. Without examining any eyewitness, the



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Management cannot come to the conclusion that it is due to negligence of the Conductor, the accident had occurred. In order to substantiate this contention, the learned counsel has relied on the Judgment of the Division Bench of this Court in *Pandian Roadways Corporation Ltd., Vs. The Labour Court, Madurai and another*, reported in *2002 (1) L.L.N.348*.

viii. The Labour Court is the Court of facts. The findings of the Labour Court cannot be reversed until and otherwise it is perverse.

ix. Before the Motor Accident Claims Tribunal, the Management has taken a plea that it is the fault on the part of the passenger. While so, they cannot fasten any liability as against the conductor and can impose the punishment on him.

For raising this point, the learned counsel has taken sufficient time of more than eight hearings for producing the award passed by the Motor Accident Claims Tribunal. However, he has expressed his



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difficulty in getting the document.

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5.This Court considered the rival submissions made and also perused the materials placed on record.

6.A passenger, who boarded the Transport Corporation bus bearing registration No.TN 74 N 326 in Route No. 37 A, from Nagercoil to Mannargudi, under the impression that the bus was going to Suseendram and got down from the moving bus once she came to know that the bus was not going to Suseendram, fell down and succumbed to the injuries. Therefore, disciplinary proceedings was initiated as against the driver and the conductor of the bus and both were imposed with the punishment of stoppage of increment for three years with cumulative effect. The industrial dispute raised by the driver in ID.No.18 of 2017 was dismissed by the Labour Court, confirming the order of punishment imposed by the disciplinary authority, whereas, the industrial dispute raised by the Trade Union on behalf of the Conductor in ID No.117 of 2018 was



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allowed. Aggrieved over the same, the Management of the Transport Corporation has moved this writ petition. This Court has perused the findings of the Labour Court in the manner, in which, the Conductor was exonerated from the charges. The Labour Court has arrived at the conclusion on surmises and conjectures, which cannot be approved by this Court. This Court is of the view that there is a contributory negligence on the part of the conductor also, for the accident said to have taken place on 27.09.2009 as that of driver and the passenger.

7. Accordingly, this writ petition is allowed. The order passed by the Labour Court, Tirunelveli in I.D.No.117 of 2018, dated 17.02.2020 is set aside. No costs. Consequently, connected Miscellaneous petition is closed.

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The General Secretary,
Tamilnadu State Transport Employees
Union 4KKM(CITU),
Ranithottam,
Nagercoil,
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B.PUGALENDHI, J.

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