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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.8843 of 2021

and

W.M.P(MD)No.6649 of 2021

The Management,
Tamil Nadu State Transport Corporation,
Tirunelveli Limited,
Nagercoil.

...Petitioner

Vs

General Secretary,
The State Transport Employees Union,
CITU 4KM,
Nagarcoil.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, by calling for the records relating to the impugned order passed by the Labour Court, Tirunelveli, dated 28.02.2020, passed in I.D.No.110 of 2018.

For Petitioner : M/s.R.Rajamohan

For Respondent : Mr.S.Arunachalam

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ORDER

The Management of the Tamil Nadu State Transport Corporation, Tirunelveli Limited, Nagercoil, has filed the present revision petition challenging an award passed by the Labour Court, Tirunelveli, in I.D.No.110 of 2018, wherein the punishment imposed by the Management of the postponement of increment for a period of six months without cumulative effect has been set aside.

2.One Mr.J.Xavier, who was working as a Driver in the petitioner Transport Corporation was issued with a charge memo on the ground that he had driven the bus in a rash and negligent manner causing fatal accident on 14.03.2005. After domestic enquiry, punishment of postponement of increment for a period of six months without cumulative effect was imposed and it was challenged before the Labour Court.

3.The Labour Court has found that the petitioner Corporation has filed a Counter in M.C.O.P.54 of 2010, contending that there is no negligence on the part of the driver and the accident has taken place due to other circumstances. Relying upon the said counter, the labour Court has proceeded to hold that the Management cannot take two different stands and issue a charge memo to the



Driver alleging that due to his negligence, the accident has taken place. Based upon the said findings, the labour Court has set aside the punishment imposed by the Management. Challenging the same, the present writ petition has been filed.

4.The learned Counsel appearing for the writ petitioner herein relying upon the Full Bench judgment of our High Court reported in **2024(1) Writ L.R. 580**, submitted that the legal defence that was taken by the transport corporation as against the claimant cannot be treated as an estoppel as against the driver of the transport Corporation. He has further contended that the statement made in the counter by the Management is only that of the litigant, who is attempting to resist the claim and such a defence cannot be treated as an estoppel. He has further contended that only due to the negligence on the part of the Driver, the accident has taken place and the petitioner transport Corporation was put to huge financial loss by payment of monetary compensation to the family members of the deceased.

5.Per contra, the learned Counsel appearing for the respondent relying upon the judgment of the Hon'ble Supreme Court reported in **2025 (4) SCC 321**, had contended that the Management cannot take two different stands, one



before the Motor Accident Claims Tribunal and other before the Labour Court

contending that the Driver was negligent causing the accident.

6.I have considered the submissions made on either side and perused the materials available on record.

7.A counter filed by the petitioner transport Corporation in M.C.O.P. has been marked as Ex.B.5, before the Labour Court. As per the said counter, the petitioner Corporation has taken a stand that there is no negligence on the part of their Driver and the accident has taken place due to other circumstances. However, a charge memo has been issued to the Driver alleging that due to his negligence, such an accident has taken place.

8.The Hon'ble Supreme Court in the judgment reported in **2025 4 SCC 321**, in paragraph Nos.30 and 32, has held 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 the MACT aside, it is clear from the pleadings of the Corporation before the 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 the 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.

9. In view of the recent decision of the Hon'ble Supreme Court, this Court is not following the judgment of the Hon'ble Full Bench of this Court reported in **2024(1) Writ L.R.580**.

10. In view of the above said undisputed facts, it is clear that the petitioner Management cannot be permitted to take two different stands before two different forums. In such circumstances, the order of the Labour Court in setting aside the punishment imposed by the Management cannot be found fault with.



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11. The workmen would be entitled to get all the eligible monetary benefits within a period of **12 (twelve) weeks** from the date of receipt of a copy of this order.

12. Therefore, there are no merits in the Writ Petition. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

10.06.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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R.VIJAYAKUMAR, J.

RJR

To

The learned Judge,
Labour Court, Tirunelveli.

W.P.(MD)No.8843 of 2021

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