



W.A(MD) No.1186 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.09.2025

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A.(MD)No.1186 of 2020
and C.M.P(MD)No.6427 of 2020**

1.The Management of
Tamil Nadu Transport Corporation
(Madurai) Ltd.,
Represented by its Managing Director,
Madurai.

2.The General Manager,
The Tamil Nadu Transport Corporation
(Madurai) Ltd.,
Dindigul Region,
Dindigul.

... Appellants

-VS-

Amalraj

... Respondent

PRAYER: Writ Appeal filed under Section 15 of Letters Patent against
the order dated 24.10.2019 made in W.P.(MD)No.21441 of 2015.

For Appellants : Mr.Naveen
for M/s.Senthilkumaraiah

For Respondent : Mr.A.Rahul



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JUDGMENT

(Judgment of the Court was delivered by **R.VIJAYAKUMAR, J.**)

The present Writ Appeal has been preferred by the Management of Tamil Nadu State Transport Corporation, Madurai Region, challenging the order passed by the Writ Court, wherein the punishment imposed by the Management was modified as postponement of increment for a period of two years without cumulative effect.

2. The respondent herein, who was employed as a Driver in the appellants Transport Corporation, was issued with a charge memo on 05.04.2010 alleging that due to his rash and negligent driving, a fatal accident has taken place. Pursuant to a domestic enquiry, he was imposed with a punishment of postponement of increment for a period of three years with cumulative effect. On an appeal, the appellate authority has modified the same as postponement of increment for a period of two years with cumulative effect. Challenging the said order, the delinquent has preferred Writ Petition in W.P.(MD)No.21441 of 2015.



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3. The Writ Court, after considering the submissions made on either side, has modified the said punishment as postponement of increment for a period of two years without cumulative effect and also held that the respondent is entitled to other consequential benefits by treating the period of suspension as duty period. Challenging the said order, the present Writ Petition has been filed by the Management.

4. According to the learned Standing Counsel appearing for the Appellants Transport Corporation, the punishment could not be modified by the Writ Court invoking Article 226 of the Constitution of India. He further submitted that there is no dispute that the respondent was involved in a fatal accident that took place on 28.03.2010. He further submitted that due to the said accident, the appellant Corporation had incurred a huge financial loss towards payment of compensation to the family members of the deceased. He also submitted that the Writ Petition was not maintainable in view of the fact that the delinquent has to approach the Labour Court challenging the order passed by the appellate authority.



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5. The Writ Court, while answering the issue relating to the maintainability, has held that the delinquent attained superannuation on 31.01.2012 and in such circumstances, it would be difficult for him to approach the Labour Court through the Union. The Writ Court has taken into consideration the order of criminal Court in C.C.No.258 of 2010, on the file of the Court of Judicial Magistrate, Theni, wherein the Criminal Court has acquitted the delinquent on the ground that the prosecution has not proved the case beyond reasonable doubt. The Writ Court has also relied upon Clause 61 of 12(3) settlement dated 30.10.1992, wherein it has been agreed by the parties that in cases of honourable acquittal, the punishment imposed upon the delinquent could be revised.

6. The learned counsel appearing for the appellants submitted that the acquittal of the delinquent is not honourable in nature. He pointed out that the acquittal is based upon benefit of doubt. Therefore, Clause 61 of 12(3) settlement dated 30.10.1992 is not applicable to the facts of the present case. He further submitted that the Writ Court has not properly appreciated the fact that the Writ Petition is not maintainable as against the order passed by the appellate authority and the Writ Court ought to have directed the delinquent to approach the labour Court.



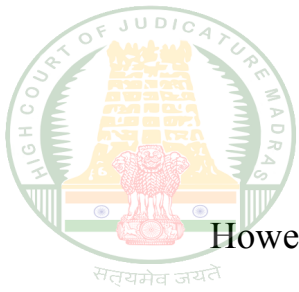
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7. Per contra, the learned counsel appearing for the respondent/workman relied upon the judgment of the Hon'ble Supreme Court in *Maharashtra State Board Transport Corporation Vs. Mahadeo Krishna Naik* reported in (2025) 4 SCC 321 and contended that the Transport Corporation has taken a stand before the Motor Accident Claims Tribunal that the Driver is not responsible for the accident. In such circumstances, the Management cannot take a 'U' turn and thereafter, initiate departmental action.

8. We have considered the submissions made on either side and perused the materials available on record.

9. As far as maintainability of the Writ Petition is concerned, we are inclined to concur with the finding of the Writ Court considering the fact that the respondent has attained superannuation in the year 31.01.2012 and therefore, he should not be driven to labour Court through the Union.

10. A perusal of the judgment of criminal Court reveals that the delinquent has been acquitted only on the ground of benefit of doubt.



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However, in the counter filed by the Management in M.C.O.P.No.67 of 2013 on the file of Motor Accident Claims Tribunal/Principal District Court, Theni, in paragraphs 5 and 6, the appellant Transport Corporation has stated as follows:

“5. It is submitted that on 28.03.2010 the bus No.TN57 / N1485 was proceeding from kumuly to Dindigul. While the bus was proceeding near uppukottai vilakku at about 10.30 AM, the Respondent driver drove the bus well on his left side of the road duly observing the traffic rules and regulation. At that time, the petitioner's son made a sudden cross on the road. On seeing this sudden cross, the Respondent-driver applied sudden brake and stopped the bus. Inspite of this, the petitioner's son dashed in the Respondent - bus, so this Respondent driver is not responsible for the accident.

6. As the Respondent-driver of the bus is not responsible for this accident, this Respondent - Management is not liable to pay any compensation to the petitioner.”

11. The Management-Transport Corporation has taken a specific stand that their Driver is not responsible for the accident for resisting the claim for compensation filed by the family members of the deceased



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person. The Hon'ble Supreme Court in a judgment in ***Maharashtra***

State Board Transport Corporation Vs. Mahadeo Krishna Naik

reported in ***(2025) 4 SCC 321***, in paragraphs 30, 32 and 34 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 the 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 the 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.

31.....

32.Even if we keep the award of the 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.



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34. *The Corporation, without an iota of doubt, being in the dominant position has attempted and achieved success in stealing a march over Mahadeo by indulging in suggestio falsi and suppressio veri. The actions of the Corporation have resulted in Mahadeo being robbed of a stable livelihood and has caused irreparable harm to him. It would not behove any court, much less this Court, to allow such free reign to a party. Omission, neglect and/or failure – whatever be the cause - the Corporation's non-disclosure of what its stand was before the MACT and what was ultimately held by the MACT to the Labour Court as well as the Single Judge is suppression of such high magnitude that it can safely be held to be akin to a clear fraud on court."*

12. In the present case, considering the fact that the Transport Corporation has taken a specific stand before the Motor Accident Claims Tribunal that their Driver is not responsible for the accident, cannot turn around and take a different stand and initiate departmental action as against the driver. The judgment of the Hon'ble Supreme Court in ***Maharashtra State Board Transport Corporation's case*** is squarely applicable to the facts of the present case. Therefore, we do not find any reason to interfere with the order of the Writ Court.



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13. Accordingly, the Writ Appeal stands dismissed. The terminal benefits shall be released to the respondent 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 is closed.

[C.V.K., J.] [R.V., J.]

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