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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2025

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.15825 of 2025

The General Secretary,
Nellai District Transport Workers Union(CITU),
Having Office at: Infront of State Transport Corporation Head Quarters,
Vannarpettai, Tirunelveli - 3. ...Petitioner

Vs

The Management of Tamil Nadu,
State Transport Corporation, Tirunelveli Region,
Tirunelveli, Represented by its General Manager,
Having Office at: Vannarpettai,
Tirunelveli - 3. ...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorarified Mandamus**, calling for the records pertaining to the impugned award passed by the Labour Court, Tirunelveli, in I.D.No.63 of 2023, dated 06.01.2025, quash the same in so far as confirming the punishment of stoppage of annual increment for two years with cumulative effect imposed on the workman T.Muthukumar by the respondent Corporation by an office order dated 25.03.2019, passed in Ref.No.D1632-Sa.8-ONaPi-TNSTC-Thili-17, and consequently set aside aforesaid punishment imposed on the said workman and further directing the respondent to pay all the consequential monetary benefits accrued to him.



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For Petitioner : Mr.A.Rahul
For Respondent : Mr.D.Jebaraj
Standing Counsel

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ORDER

The present Writ Petition has been filed by the Union challenging the award passed by the Labour Court, Tirunelveli, in I.D.No.63 of 2023, dated 06.01.2025.

2.One T.Muthukumar who was working as a Driver in the respondent transport Corporation was issued with a charge memo, on 14.08.2017, on the allegation that while driving the bus on 10.08.2017, he had driven the same in a rash and negligent manner and caused injury to a pedestrian. The Driver has submitted his explanation on 11.09.2017, to the effect that the lady who was in conversation with another lady, suddenly turned due to call made by another lady standing on the opposite direction. She has lost her balance and fell down and sustained injuries.

3.The injured lady had filed M.C.O.P.No.353 of 2018, before the Motor Accident Claims Tribunal, Tirunelveli, seeking compensation. In the said claim



petition, the transport Corporation has filed a counter on 06.08.2019, replicating the explanation submitted by the Driver in the charge memo. A perusal of the counter manifests that the Corporation has taken a stand that the Driver was not negligent and hence, the Corporation driver is not responsible for the accident.

4. In the domestic enquiry proceedings, the Driver was found guilty of all the charges and he was issued with a second show cause notice on 22.01.2019, and final orders were passed on 25.03.2019, imposing a punishment of postponement of increment for a period of two years with cumulative effect. The petitioner was imposed with a further punishment of treating the suspension period as an eligible leave period. This order was put to challenge by the Trade Union in I.D.No.63 of 2023.

5. The Labour Court after considering the documentary evidence filed on either side has arrived at a finding that the enquiry has been conducted in a fair manner and has proceeded to confirm the order of punishment imposed by the Management. Challenging the same, the present Writ Petition has been filed by the workman.



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6. According to the learned Counsel appearing for the writ petitioner, the explanation submitted by the workman to his charge memo has been accepted and the same is replicated in the counter filed by the transport Corporation in the Motor Accident Claims Petition filed by the injured Pedestrian. However, the counter filed by the transport Corporation was suppressed before the labour Court. He has relied upon the judgment of the Hon'ble Supreme Court reported in **2025 (4) SCC 321, paragraph No.34** and contended that in the light of the judgment of the Hon'ble Supreme Court, the labour Court ought not to have confirmed the punishment.

7. Per contra, the learned Standing Counsel appearing for the transport Corporation has submitted that the Driver was operating the vehicle in a busy locality and therefore, he should have been more careful in looking at either side of the road. Had he been more careful, the said accident would not have happened. Because of the accident, the transport Corporation had incurred huge financial loss towards payment of compensation to the injured pedestrian. He has further submitted that the counter filed by the transport Corporation in the Motor Accident Claims Petition cannot be relied upon by the Driver in the domestic enquiry proceedings. The transport Corporation is always at liberty to



defend the claim petition before the claims Tribunal. The said stand cannot be relied upon by the employee.

8.I have considered the submission made on either side and perused the materials available on record.

9.The facts narrated above will clearly indicate that explanation offered by the Driver to the charge memo has been accepted by the Management and later replicated in the counter filed in the Motor Accident Claims Petition. Though there is a reference about the Motor Accident Claims Petition, in the counter filed by the transport Corporation, in the Industrial Dispute raised by the workman, a copy of the counter was not placed before the Labour Court. A perusal of the counter filed in M.C.O.P.No.353 of 2018, would clearly indicate that the transport Corporation has taken a specific stand that the Driver is not at all responsible. In fact, the Management has replicated the explanation submitted by the Driver to the charge memo in the counter filed in M.C.O.P.No. 353 of 2018.



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10. The Hon'ble Supreme Court in a judgment reported in **2025 (4) SCC**

321. Paragraph Nos.30, 32 and 34, are 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 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.

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 MACT and what was ultimately held by MACT to the Labour Court f 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.”



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11. In the present case, it is clear that the counter in M.C.O.P. proceedings were filed by the transport Corporation on 06.08.2019. However, while filing the counter in I.D.No.63 of 2023, in September 2023, the said counter in M.C.O.P. proceedings has been suppressed. Therefore, the judgment of the Hon'ble Supreme Court referred to supra is applicable to the facts of the present case. The Management cannot take contradictory stands before the Motor Accident Claims Tribunal and in the domestic enquiry proceedings.

12. In view of the above said deliberations, the punishment imposed by the Management as well as the order of labour Court confirming the same are hereby set aside. The respondent Management is directed to release the eligible monetary benefits within a period of 12(twelve) weeks from the date of receipt of a copy of this order.

13. Accordingly, this Writ Petition stands allowed. No costs.

08.08.2025

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



R.VIJAYAKUMAR, J.

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To

The General Manager,
The Management of Tamil Nadu,
State Transport Corporation, Tirunelveli Region,
Tirunelveli,
Having Office at: Vannarpettai,
Tirunelveli - 3.

W.P.(MD)No.15825 of 2025

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