



W.P.(MD).No.21151 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.21151 of 2019

and

W.M.P(MD) No.17786 of 2019

The Management,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Dindigul Region,
Dindigul – 624 004.

... Petitioner

Vs.

1. The Special Deputy Commissioner of Labour,
Office of the Commissioner of Labour,
Chennai – 600 006.

2. V.Buvanendiran

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the first respondent in his proceeding in Approval Petition in A.P.No.309 of 2012, dated 16.08.2016 which was received by the petitioner on 02.04.2019 quash the same.



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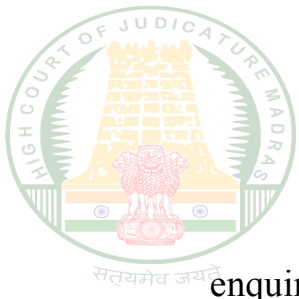
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For Petitioner : Mr.J.Senthil Kumaraiah
For R1 : Mr.G.V.Vairam Santhosh
Additional Government Pleader
For R2 : Mr.G.M.Xavier

ORDER

The present Writ Petition has been filed by the Management of Tamil Nadu State Transport Corporation, Dindigul Region, challenging the order passed by the first respondent herein under Section 33 (2) (b) of the Industrial Disputes Act, 1947, wherein the approval application submitted by the Management for dismissing the second respondent herein has been rejected.

2. The second respondent herein who was working as a Conductor was issued with a charge memo on the ground that he was involved in a fatal accident while he was driving the bus on 15.05.2011. He had submitted an explanation that he was not responsible for the accident and only the other vehicle, namely, the rider of the two wheeler which was coming from the side road into the main road was responsible for the accident. Without being satisfied with the explanation submitted by the second respondent, domestic

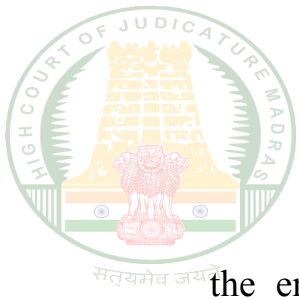


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enquiry was ordered. In the domestic enquiry, the charges as against the second respondent were found proved and the Management had passed an order on 06.10.2012 dismissing the second respondent from service. This dismissal order was sent for approval to the first respondent herein on 06.10.2012. Under the impugned order, the request for approval has been rejected by the first respondent on the ground that the Management has not proved the *prima facie* case in the domestic enquiry by acceptable evidence. Challenging the same, the present Writ Petition has been filed.

3. According to the learned counsel appearing for the petitioner/ Management, in the domestic enquiry, the mis-conduct on the part of the second respondent has been established and only due to the negligence on the part of the second respondent, the accident has taken place, which has resulted in a fatal accident. Unless the capital punishment is imposed upon the driver for being involved in a fatal accident, discipline cannot be brought in within the cadre of the drivers. He pointed out that the first respondent has exceeded the jurisdiction and he has gone beyond the merits of the case and proceeded to pass an order, to the effect the Management has not proved the *prima facie* case by way of acceptable evidence. He further pointed out that



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the enquiry has been conducted in a fair manner and the workman has participated in the said proceedings. In such circumstances, approval ought to have been granted by the authority.

4. The learned counsel appearing for the second respondent herein contended that none of the eyewitnesses were examined in the domestic enquiry and only the Junior Assistant from the office of the petitioner/ Management was examined, who had no knowledge about the manner of accident, that had taken place. He further pointed out that in the enquiry report it has been specifically found that the rider of the two wheeler was also responsible for the accident. In such circumstances, capital punishment should not have been imposed to the second respondent/workman. Therefore, the first respondent has rightly rejected the request for approval submitted by the management.

5. Heard the learned counsel appearing on either side and perused the materials available on record.



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6. After going through the impugned order of the first respondent, this Court has directed the petitioner/Management to produce a copy of the domestic enquiry report. A perusal of the domestic enquiry report reveals that the rider of the two wheeler was moving from a side road into the main road and the bus was travelling in the main road. The rider, who moved from the side road into the main road has to look into either side road before entering into the main road. Therefore, in violation of the Motor Vehicle Rules, the rider of the two wheeler had entered into the main road and collided with the bus, which was moving in the main road. In such circumstances, the finding of the domestic enquiry report that the driver of the bus was also responsible for the accident cannot be accepted. The driver of the bus, who was moving in the main road was not expected to look into the side roads. Therefore, the first respondent has rightly arrived at a finding that the Management has not established a *prima facie* case by acceptable evidence for passing an order of dismissal. It should be noted that none of the eyewitnesses in the accident have been examined in the domestic enquiry.



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7. In view of the above said deliberations, there are no merits in the Writ Petition. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petition stands closed.

25.06.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
The Special Deputy Commissioner of Labour,
Office of the Commissioner of Labour,
Chennai – 600 006.



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R.VIJAYAKUMAR,J.

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