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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.06.2025

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)Nos.15570 & 23524 of 2018

and

W.M.P(MD)Nos.13985, 21336 of 2018 & 10820 of 2019

W.P(MD)No.15570 of 2018:

B.Loganathan

...Petitioner

Vs.

1.The Management,
Tamil Nadu Transport Corporation (Kumbakonam) Limited,
Karaikudi Division, Maruthupathi, Managiri,
Karaikudi - 630 307.

2.The Special Joint Commissioner of Labour,
Chennai.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Mandamus**, directing the 1st respondent management herein to reinstate the petitioner with continuity of service and pay backwages pursuant to the order passed by the 2nd respondent in A.P.No.307/2014, order dated 24.01.2018.

For Petitioner

: M/s.S.M.Mohan Gandhi

For Respondents

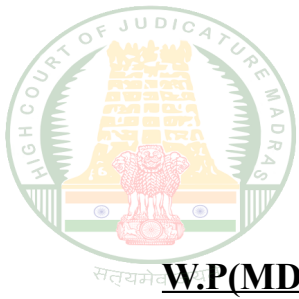
: Mr.S.C.Herold Singh

Standing Counsel for R1

M/s.D.Farjana Ghoushia

Special Government Pleader for R2

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W.P(MD)No.23524 of 2018:

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The Management,
Tamil Nadu Transport Corporation (Kumbakonam) Limited,
Karaikudi Region, Marudhupathi, Managiri,
Karaikudi - 630 307.

...Petitioner

Vs.

1.The Special Joint Commissioner of Labour,
Authority under Section 33(2) (b) of I.D.Act,
Chennai.

2.P.Loganathan

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorari, calling** for the records relates to the order passed by the respondent No.1 herein in A.P.No.307 of 2014, dated 24.01.2018, quash the same.

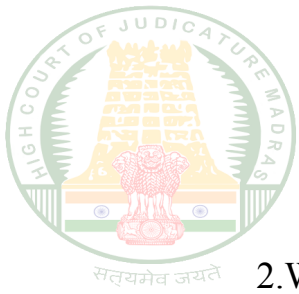
For Petitioner : Mr.S.C.Herold Singh
Standing Counsel

For Respondents : M/s.D.Farjana Ghousia
Special Government Pleader for R1
Mr.S.M.Mohan Gandhi for R2

* * * * *

COMMON ORDER

The Management of the Tamil Nadu State Transport Corporation(Kumbakonam) Limited, Karaikudi Division, has filed W.P(MD)No. 23524 of 2018, challenging an order passed by the Special Joint Commissioner of Labour, Chennai, dated 24.01.2018, wherein the request of the Management for granting approval for the order of dismissal has been rejected.



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2.W.P.(MD)No.15570 of 2018, has been filed by the workmen seeking reinstatement with continuity of service and backwages based upon the order of the Special Joint Commissioner of Labour, Chennai, dated 24.01.2018.

3.The Management had suspended the Driver and issued a charge memo to him on 16.10.2010, on the allegation that due to his negligence, a fatal accident has taken place. The suspension order was revoked on 15.11.2010. Not being satisfied with the explanation submitted to the charge memo, domestic enquiry was initiated in which the charges as against the workmen were found to be proved and was imposed with a punishment of dismissal from service. This order was passed on 29.11.2014.

4.Seeking approval for the said order, as contemplated under Section 33(2) (b) of the Industrial Disputes Act, 1947, the Management has approached the first respondent on 01.12.2014. Under the impugned order, the Special Joint Commissioner of Labour has chosen to reject the said request primarily on the ground that the Management has not established a prima facie case through evidence, that the charges as against the workmen are proved. Challenging the same, the present writ petition has been filed.



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5. According to the learned Counsel appearing for the Management, the authorities have chosen to reject the prayer for approval mainly on the ground that the transport Corporation has filed a counter and proof affidavit before the Motor Accident Claims Tribunal that there was no negligence on the part of the Driver of the transport Corporation. He has pointed out that the said reasons could not be legally sustainable. In fact, only due to the negligence on the part of the Driver of the transport Corporation, the accident has taken place and the transport Corporation has incurred huge financial loss of more than One crore for payment of compensation to the victim and their family.

6. Per contra, the learned Counsel appearing for the respondent/workmen has submitted that the transport Corporation has filed a counter before the Motor Accident Claims Tribunal contending that the Driver of the transport Corporation was not at all responsible for the accident and there was no negligence on the part of the Driver. In fact, the officials of the transport Corporation has filed a proof affidavit to the said effect. In such circumstances, they cannot take a contradictory stand. He has relied upon the judgment of the Hon'ble Supreme Court reported in **2025 (4) SCC 321**, in support of his contention.



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

8.The Special Joint Commissioner of Labour has chosen to reject the request of the Management for granting approval under Section 33(2)(b) of the Industrial Disputes Act, 1947, primarily on the ground that the Management has filed a proof affidavit before the Motor Accident Claims Tribunal that their Driver was not negligent and he was not responsible for the accident. The findings of the authority is supported by the decision of the Hon'ble Supreme Court reported in **2025 (4) SCC 321**. Paragraph Nos.30 and 32 are extracted 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.



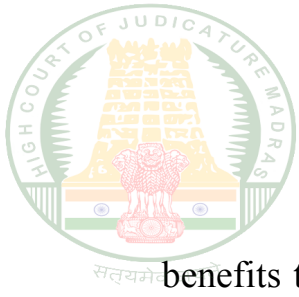
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32. Even if we keep the award of the MACT aside, it is clear from the pleadings of the Corporation before the MACT and the Labour Court that the Corporation has attempted to get the best of both worlds. The contradictory nature of the stances taken 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 decision of the Hon'ble Supreme Court, it is clear that the Management cannot take a contradictory stand before the Motor Accident Claims Tribunal and in the domestic enquiry process. The authorities have rightly rejected the request for approval to the order of dismissal from service.

10. The workmen has filed W.P.(MD)No.15570 of 2018, seeking reinstatement with continuity of service and consequential monetary benefits.

11. In view of the order of this Court dismissing the writ petition filed by the Management, W.P.(MD)No.15570 of 2018, stands disposed of with a direction to the Management to release the terminal benefits and other monetary



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benefits to the workmen, if not already released, within a period of **12 (twelve)** weeks from the date of receipt of a copy of this order.

12. With the above said observations, both the Writ Petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are also closed.

13.06.2025

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

RJR



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R.VIJAYAKUMAR, J.

RJR

To

1.The Management,
Tamil Nadu Transport Corporation (Kumbakonam) Limited,
Karaikudi Division, Maruthupathi, Managiri,
Karaikudi - 630 307.

2.The Special Joint Commissioner of Labour,
Chennai.

W.P.(MD)Nos.15570 & 23524 of 2018

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