



**W.P.(MD)Nos.17020 of 2016**

**WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 10.02.2025**

**CORAM:**

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.(MD)No.17020 of 2016**  
**and**  
**W.M.P.(MD)No.12342 of 2016**

S.Geetha

... Petitioner

Vs.

1.The Presiding Officer,  
Labour Court, Trichirappalli,  
Trichirappalli District.

2.The Management,  
TNSTC (Kumbakonam) Ltd.,  
Periyamilaguparai, Trichirappalli,  
Trichirappalli District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned order passed in I.D.No.25/1999 dated 11.11.2009 on the file of the 1<sup>st</sup> respondent and quash the same.



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For Petitioner : Mr.K.Viralinathan  
For Respondents : Mr.SC.Herold Singh for R2  
R1 Court

### **ORDER**

The husband of the petitioner by name K.Shanmugasundaram was appointed as a Conductor in the second respondent Corporation on 04.11.1991. While he was working as such, he was subjected to disciplinary proceedings by issuing a charge memo dated 16.07.1997 on certain misconduct and thereafter, on conducting an enquiry into the matter, out of two charges only one charge held to have been proved. Thereafter, an order of punishment of termination from service of the deceased husband of the petitioner was passed by an order dated 01.10.1997. It was aggrieved by the said order, the petitioner raised an Industrial Dispute vide I.D.No.25 of 1999. In the said ID proceedings, the learned Labour Court passed a preliminary award finding fault with the departmental enquiry and holding the same as perverse by an order dated 15.02.2025. While so, the deceased husband of the petitioner passed away on 28.08.2006 and it was thereafter, the learned Labour Court proceeded with the



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enquiry and confirmed the order of termination passed by the respondent No.2.

It is aggrieved by the said order dated 11.11.2009 passed in I.D.No.25 of 1999, the petitioner approached this Court by filing the present Writ Petition contending that the petitioner could not prosecute the matter properly after demise of her husband before the learned Labour Court and therefore, the illegal termination order passed by the 2<sup>nd</sup> respondent came to be confirmed by the learned Labour Court.

2. This Court after having taken note of the factual scenario especially the death of the deceased husband of the petitioner, after an order was passed on 15.02.2005, finding fault with the departmental enquiry conducted by the respondent No.2 and holding the same as perverse and required the respondent No.2 to prove the charges and inability of the petitioner to defend the said charges, required the learned counsel on either side to verify the legal position as to whether the said proceedings of the learned Labour Court shall abate or not consequent upon the death of the deceased employee. Accordingly, heard the counsel on either side on the said aspect.



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**WEB COPY** 3. From the factual narration as above, it is clear that the departmental enquiry that was conducted by respondent No.2 was held to be illegal and perverse by the learned Labour Court by an order dated 15.02.2005, thereby, the respondent No.2 is under obligation to establish the charges that are levelled against the deceased employee before the learned Labour Court in order to sustain the order of termination dated 01.10.1997. As already noted above, the delinquent employee was died on 28.08.2006. Whether the charges levelled against the delinquent employee are proved or not or whether supported by any evidence or not are all of the matters to be defended by the deceased employee. As the deceased employee was no more, by the time the respondent No.2 adduced the evidence before the learned Labour Court, it is necessary to consider whether such proceedings can be continued after the demise of the delinquent employee. It is as good as the disciplinary proceedings being concluded after demise of the delinquent employee. As the entire departmental enquiry that was conducted by respondent No.2 was found to be perverse by the learned Labour Court, if it had been before the enquiry officer, the natural consequence on the death of the delinquent employee is to declare the



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disciplinary proceedings as abated. Merely because the proceedings are pending before the learned Labour Court and the respondent No.2 is directed to prove the charges, the same does not make any difference as the delinquent employee is no more to defend the charges.

4. In view of the same, the proceedings that are pending before the learned Labour Court would also abate for want of availability of the delinquent employee to defend the charges. It is impossible for the legal representative of the delinquent employee to defend the charges as they are totally unaware of what happened and as to how the delinquent employee was subjected to disciplinary proceedings etc. As seen from the affidavit filed in support of this Writ Petition, the petitioner herein is a house wife and not having any legal knowledge or any personal information about the charges that are levelled against the delinquent employee. Thus, the learned Labour Court instead of declaring the proceedings as abated, consequent upon the death of the delinquent employee, erroneously proceeded with the enquiry requiring the legal representatives of the deceased employee including the petitioner to defend the



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charges. Such a procedure is totally impermissible under law and would amount to violation of the principle of natural justice. In the circumstances, the impugned award cannot be sustained.

5. Be that as it may, the impugned award was passed on 11.11.2009 and whereas the delinquent employee passed away on 28.08.2006. However, the present Writ Petition was filed on 12<sup>th</sup> August 2016 before this Court. Thus, there is a delay of about 6 years in filing the present Writ Petition. No doubt, the petitioner has furnished certain explanation for the delay in filing the present Writ Petition.

6. Considering the fact that the delinquent employee is no more, the question of ordering reinstatement into service does not arise at all. Then the next question that arise for consideration is what would be the nature of relief that can be granted to the petitioner herein after quashed the impugned award.



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7. As seen from the facts of the case, the deceased husband of the petitioner was appointed as Conductor in the second respondent Corporation on 04.11.1991 and continued in service till 01.10.1997 ie., the date on which he was removed from service. As the date of removal from service was found fault by the learned Labour Court initially declaring the enquiry proceedings as perverse and the delinquent employee was not available to defend the charges and consequent upon declaring the award of the Labour Court as illegal and arbitrary, the deceased husband of the petitioner would have continued in service till the date of his demise on 28.08.2006 and therefore, the petitioner is entitled to all the terminal benefits.

8. Considering the fact that the deceased husband of the petitioner is not working from 01.10.1997 till the date of his demise on 28.08.2006 and also there was a delay of about 6 years in approaching the Court by the petitioner, this Court deems it appropriate to direct the respondent No.2 Corporation to treat the deceased husband of the petitioner as continued in service till 28.08.2006 and to pay all the terminal benefits that could be payable to the deceased husband of the



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petitioner had he continued in service till the date of his death including the pension. However, the petitioner shall not be entitled for any back wages. Further it is made clear that in case if the deceased husband of the petitioner is liable to pay any contributions for pension, family pension etc., or any deduction, all such amounts shall be paid by the respondent No.2 Corporation to enable the petitioner herein to get the terminal benefits including the family pension etc. The entire exercises, as directed above, shall be completed by respondent No.2 within a period of two months from the date of receipt of a copy of this order.

9. Accordingly, this Writ Petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

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Neutral Citation: Yes / No  
Index : Yes / No  
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