



W.P.(MD).No.27267 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.27267 of 2022

The General Secretary,
Tamil Nadu State Transport Corporation,
Muvendar Munnani Kazhaga
Thozhilalar Sangam,
Having Office at, Door No.106/7,
Gopal Nagar, Dindigul.

... Petitioner

Vs.

The Management,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Byepass Road, Dindigul Region,
Dindigul.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned award passed by the Labour Court, Trichy in ID.No.16/2016 dated 06.10.2021 in so far as it has denied and negated the claim of the petitioner to set aside the punishment of stoppage of his annual increment for two years with cumulative effect besides treating the period of suspension of 30 days from 26.11.2010 to 25.12.2010 as eligible leave instead of treating the suspension period as duty in terms of the Standing Orders of the respondent corporation and quash the same and



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consequently direct the respondents to settle difference in wages to the petitioner with arrears, periodical review benefits and all other attendant and consequential benefits with suitable rate of interest.

For Petitioner : Mr.A.Rahul
For Respondent : Mr.S.C.Herold Singh
Standing Counsel

ORDER

The present Writ Petition has been filed by the Trade Union challenging the award of the Labour Court, Trichy, in I.D.No.16 of 2016, dated 06.10.2021, wherein, the punishment of postponement of increment for a period of three years with cumulative effect imposed by the Management was confirmed.

2. One Mr.S.Murugan, who was employed as a driver in the respondent Transport Corporation was issued with a charge Memo dated 01.12.2012 on the allegation that due to his negligence, he has caused a fatal accident on 24.11.2010. After enquiry, he was found guilty of the charges and he was imposed with a punishment of postponement of increment for a period of three years with cumulative effect. This order was put to challenge by the Union under Section 2(K) of the Industrial Disputes Act, before the Labour Court.



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3. The Labour Court, after considering the documents filed on the side of the petitioner and the respondent and the submissions made on either side has arrived at a finding that the driver was responsible for the accident and has proceeded to confirm the order of punishment. Challenging the same, the present Writ Petition has been filed.

4. According to the learned counsel appearing for the writ petitioner, when the workman was driving the vehicle at about 12.00 midnight, the deceased lady, who was 75 years old had attempted to cross the road and she got stumbled upon the median and fell on the back side of the bus. There was no negligence on the part of the driver. He has further submitted that the relatives of the deceased lady have given a letter to the respondent Transport Corporation to the effect that the deceased lady was a mentally challenged person and for answering the nature's call she had come out of the house at around 12.00 midnight and therefore she alone was responsible for the accident. He further pointed out that the Labour Court has erroneously fixed the burden upon the workman to prove that he was not responsible for the accident.



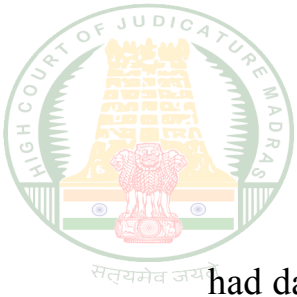
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5. Per contra, the learned Standing Counsel appearing for the respondent/Transport Corporation submitted that the driver had initially given statement that after seeing the old lady he had stopped the bus. But despite the stoppage of the bus, the lady had fallen on the bus and passed away. However, after getting letter from the relatives of the aged deceased lady, a different stand was taken by the driver. Since contradictory stands were taken, the Enquiry Officer has arrived at a finding that the accident has taken place only due to the negligence on the part of the driver. Merely because the driver was acquitted in the criminal proceedings, on the ground of benefit of doubt, he cannot be exonerated from the domestic enquiry. Hence, he prayed for sustaining the order passed by the labour Court.

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

7. On 24.11.2010, when the driver was driving the bus from Salem to Bodinayakkanur, at around 11.55 p.m., when the bus was crossing Theni-Allinagaram, near Fatima Theatre, the old lady had attempted to cross the road, she had stumbled upon the median and right rear side body of the bus



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had dashed against the lady and she had fallen into the bus. She has sustained grievous injuries and she later passed away.

8. A perusal of the basic report submitted by the authorities would also supports the above said facts.

9. The grandson of the deceased lady has given a letter to the transport Corporation to the effect that his grandmother is a mentally challenged person aged about 75 years and she was responsible for the accident and the driver of the transport Corporation was not negligent. This letter has been marked as Ex.W.4.

10. A perusal of the judgment of the criminal Court reveals that the relatives of the deceased lady who have been examined as P.W1 and P.W.2 had categorically deposed that their grandmother was a mentally challenged person and she alone was responsible for the accident. Therefore, the Criminal Court has proceeded to acquit the workman. Though the last line of the criminal Court judgment reveals that the acquittal is based on the benefit of doubt, in fact, the acquittal is a honourable acquittal.



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11. As per Clause 61 of the 12(3) settlement dated 30.09.1992, if the driver is honourably acquitted in the criminal case, the decision in the disciplinary action has to be revised based on the orders of the Court. In the present case, the acquittal is honourable in nature. However, the authority has not chosen to revise the orders of punishment imposed on the workman.

12. The labour Court has erroneously fixed the burden upon the workman and has arrived at a finding that the accident has taken place due to the negligence on the part of the driver of the Transport Corporation. Though the close relatives of the deceased lady have categorically deposed before the criminal Court that she is a mentally challenged person and the accident has taken place due to her negligence, the Labour Court has not considered the said portion in the order.

13. The Labour Court has also failed to consider the fact that the relatives of the deceased lady have given a letter to the Branch Manager to the effect that the deceased lady is a mentally challenged person. It is also been noted that the relatives of the deceased lady have not filed any claim



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petition before the Motor Accident Claims Tribunal. In such circumstances, it is clear that there is no negligence on the part of the workman and the charges as against the workman have not been proved. The Labour Court has erroneously fixed the burden upon the workman and proceeded to confirm the punishment imposed as against the workman.

14. In view of the above said deliberations, the order of the Labour Court as well as the punishment imposed by the Management is hereby set aside and the Writ Petition stands allowed. The respondent is directed to regularize the suspension period of the workman as duty period and to release all the consequential monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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