

BEFORE THE ADDITIONAL LABOUR COURT, COIMBATORE

Present: ***Thiru. K. Lingam, B.Sc., M.L.,***
 Presiding Officer,
 Additional Labour Court,
 Coimbatore

Wednesday, the 12th day of August 2026

OP/ ID. No. 60/2023

(CNR No.TNCB-04-000150-2023)

Secretary,
Tamil Nadu Arasu Pokkuvarathu
Uliyar Sangam (CITU),
Tirupur.

. . . Petitioner

~ Versus ~

The Management,
Tamil Nadu State
Transport Corporation,
Coimbatore Region,
Zonal Office at Tirupur.

. . . Respondent

This Petition came up for final hearing before me on 7th of March 2025 in the presence of Thiru.B. Jothikumar, Learned counsel for the petitioner and Tmt. K.T.Kannika Sankareswari, Learned counsel for the Respondent. Upon perusing the entire case records and upon hearing the arguments of both sides, and having stood over for consideration till this date, this Court doth passed the following :-

FINAL AWARD

The petitioner seeks to set aside the punishment order dated 27.07.2016, imposing stoppage of increment for a period of two years with cumulative effect, and to set aside the deduction of Earned Leave for the period from 04.10.2014 to 02.11.2014(30 days) from the petitioner member's leave account, and to direct payment of the consequential monetary benefits under Section 2-K of the Industrial Disputes Act, 1947.

2. Petition averments in brief :-

The petitioner trade union represents the cause of its aggrieved bus driver Mr S. Manivel. The industrial dispute was raised out of reference u/s 2K of the Industrial Disputes Act, 1947. The petitioner intends to challenge the impugned punishment of stoppage of increment for a period of two years with cumulative effect imposed upon its member Mr S. Manivel. It also challenges the proceedings dated 27.07.2016 in which the suspension period between the dates of 04.10.2014 to 02.11.2014 was ordered to be treated as leave and to be deducted consequently. The petitioner trade union is a registered trade union. It is meant for the welfare of the employees under the respondent bus corporation. The respondent bus corporation is headquartered at Coimbatore. More than thousand drivers and conductors are working under the respondent management. The driver Mr S. Manivel was issued a charge memo on 23.10.2014. He was charged with rash and negligent driving on the date of

02.10.2014 at about 8.25 am while he was proceeding from Mettupalayam to Theni in his TN-38-N2866 Government bus. The bus allegedly hit the two wheeler in its right side. The two wheeler victim died at the hospital. The police registered an FIR against Mr S. Manivel. Meanwhile, the petitioner was also given show cause notice u/s 14(d) and (ad) of the Certified Standing Orders meant for the respondent management. Mr S. Manivel was also suspended on 04.10.2014. Mr S. Manivel submitted his reply on 03.10.2014. He would attribute the negligence on the part of the two wheeler victim and inspite of applying the brake, the two wheeler hit the bus and the accident happened, according to the petitioner member. The victim was immediately taken to Tirupur Government Hospital and he succumbed to injuries. His reply was not duly considered by the management. A detailed charge memo was issued on the date of 23.10.2014. Mr S. Manivel responded to the same on 06.11.2014 by way of reply. The respondent management ordered domestic enquiry in this matter. The inquiry proceeded one sided without considering the defence taken by Mr S. Manivel. The principles of natural justice were not followed. The petitioner member was not given due opportunities to contest his case. Finally, the petitioner member was found guilty of charges. The management issued a second show cause notice to Mr S. Manivel on 01.07.2016. He replied to the same on 12.07.2016. Subsequently, the management proceeded with the punishment of stoppage of increment for two years with cumulative effect as against the petitioner member. He was also imposed a deduction of 30 days earned leave from his credit in

respect of his suspension period. Meanwhile, a criminal case in CC. No. 667 of 2017 ended in acquittal in favour of the petitioner member before the learned Judicial Magistrate No- III, Tirupur. The petitioner member requested for appeal by his letter dated 15.09.2020 which was not considered by the management. Hence the petitioner member raised an industrial dispute with the help of the petitioner trade union before the Conciliation Officer, Tirupur on 27.07.2016. The respondent was adamant in their stand. Hence the conciliation failed. The report was submitted to the Government of Tamil Nadu. The Government of Tamil Nadu referred the matter to this Court in TN. GO. MS. No. 530 of Labour Welfare and Skill Development (D1) Department dated 16.10.2023 by raising the issues as follows

"எழுவினா

மனுதாரர் திரு. S. மணிவேல், ஓட்டுநருக்கு (பணி எண். C23660) வருடாந்திர ஊதிய உயர்வை இரண்டு வருடங்களுக்குப் பின் தொடர்ச்சியுடன் தள்ளி வைத்து நிர்வாகம் பிறப்பித்த 27.07.2016 நாளிட்ட உத்தரவை ரத்து செய்திடவும் ஏற்கனவே தற்காலிக வேலை நீக்கம் செய்யப்பட்ட 04.10.2014 முதல் 02.11.2014 வரையுள்ள 30 நாட்களை பணி நாளாக கருதி ஊதியம் வழங்கிட வேண்டுமென்ற தொழிற்சங்கத்தின் கோரிக்கை நியாயமானது தானா? ஆம் எனில் உரிய உத்தரவுகள் பிறப்பிக்கவும்"

The petitioner member was given two punishments for the same charges. The stoppage of increment with cumulative effect is not a listed punishment under the Certified Standing Order. The petitioner member is suffering mentally as well as

economically. The punishment is grossly disproportionate to the gravity of charges involved. The petitioner member was victimized for his trade union activities in its affiliate of CITU. Hence the impugned punishment is liable to be set aside and the petitioner member is to be given monetary benefits. Hence this petition.

3. **Counter averments in brief :-**

The petition allegations are denied save those admitted. The petitioner member Mr S. Manivel was attached with Tirupur-1 branch as a driver. It is true that the petitioner member drove the government bus on the alleged date and time. But the petitioner member was rash and negligent in driving the bus and hit the two wheeler and the victim succumbed to injuries. The bus hit the two wheeler that was coming from the left to the right of the bus and the bus driver was only responsible for causing the accident. The management sustained damages worth Rs. 2,000/- and the two wheeler damages worth Rs. 1000/-. The petitioner member was charged with 14(a) and (ad) of the Certified Standing Order for causing the fatal accident. The delinquent did not reply to the charge memo dated 23.10.2014. The domestic enquiry was conducted in this regard. The petitioner member was found guilty of charges. The enquiry officer submitted his findings to the respondent corporation. The respondent management issued a second show cause notice on 20.05.2016. But the petitioner member did not choose to file his objections. Hence the findings were

accepted by the management and the petitioner member was imposed the impugned punishment of stoppage of increment. The petitioner member could have been given a stoppage of increment for three years with cumulative effect. But the administration was magnanimous and did not impose such a punishment. The petitioner member gave a reply on 12.07.2016. His reply was not found satisfactory. The management imposed a punishment of stoppage of increment for a period of two years with cumulative effect. The deduction of the suspension period as a leave period is not a punishment. It only saves the money of the petitioner member. The legal heirs of the victim filed MCOP case before the Motor Accident Claim Tribunal, Theni. The Tribunal awarded Rs. 10,80,000/- along with interest totalling Rs. 13,18,388/- as compensation. The management sustained loss due to the reckless act of the petitioner member. The management never intended to victimize the petitioner member at any point of time. The petitioner member has to be made accountable for the accident as well as loss sustained by the management. Hence the petition is liable to be dismissed.

4. The merits of the impugned dismissal order was the subject matter before this Court. The claim statement was filed by the petitioner. The respondent has resisted the same by way of a detailed counter. The matter was contested on merits. The preliminary issues were framed in respect to the fairness of the domestic

enquiry as well as upon the alleged perversity over the findings of the enquiry officer. The Court carefully considered the arguments advanced on both sides. The Court ultimately passed the preliminary award on the date of 25th of March 2025 validating the domestic enquiry. In other words, the domestic enquiry was held fair and proper by upholding the findings of the enquiry officer, at the same time it was held that the domestic enquiry is vitiated as biased and perverse.

5. After the domestic enquiry was initiated, proceedings u/s 11A of the Industrial Disputes Act, 1947 was ordered. Both sides were heard. They have not adduced any oral evidence. Exhibits W1 to Ex. W10 were marked on the petitioner side by consent. No documents were marked on the side of the respondent.

6. The Court carefully considered the arguments advanced on both sides. Based on the averments, the preliminary issues were framed as follows :

Point for Determination:-

1. Whether the punishment of stoppage of increment for a period of two years with cumulative effect imposed on the petitioner member, Mr. S. Manivel, by the order dated 27.07.2016 is liable to be set aside?
2. Whether the petitioner member is entitled to restoration of the 30 days of Earned Leave deducted from his Earned Leave account for the period from

04.10.2014 to 02.11.2014?

3. Whether the petitioner member is entitled to the consequential monetary benefits?

4. To what other reliefs, the parties are entitled to?

7. Answer to Point No. 1 to 3 :-

This case was taken on file on the basis of the reference made by the Government of Tamil Nadu under Section 2-K of the Industrial Disputes Act, 1947, in G.O. Ms. No.530 dated 16.10.2023. The Government of Tamil Nadu referred the issue to this Court as to whether the punishment of stoppage of increment for a period of two years with cumulative effect imposed by the order dated 27.07.2016 is liable to be set aside and whether the petitioner member, Mr. S. Manivel, Driver, is entitled to claim salary for the suspension period from 04.10.2014 to 02.11.2014, totalling 30 days.

8. It is the case of the petitioner that he joined as a Driver under the respondent Management and his employee No. is C23660. When the petitioner member was working as a Driver on 02.10.2014 in a bus bearing Registration No. TN-38-N-2866 on the Mettupalayam to Theni route, the bus driven by him met with an accident at about 8.25 a.m., in which the two-wheeler rider sustained grievous injuries and subsequently succumbed to the injuries. It is the case of the petitioner that the accident was caused only due to the rash and negligent act of the two-wheeler

rider and that the petitioner member had taken all possible efforts to avoid the accident. In this regard, the respondent Management issued a charge memo dated 23.10.2014 under 14(a) and (ad) of the Certified Standing Orders, alleging that the accident occurred due to the rash and negligent driving of the petitioner member. Thereafter, a domestic enquiry was conducted and the Enquiry Officer submitted his report holding that the charges against the petitioner member were proved. Thereafter, following the prescribed procedure, the respondent Management imposed the punishment of stoppage of increment for a period of two years with cumulative effect and further directed that the suspension period from 04.10.2014 to 02.11.2014, totalling 30 days, be treated as leave and deducted from the Earned Leave account of the employee. Challenging the said order passed by the respondent Management, the petitioner Union raised the industrial dispute under Section 2-K of the Act.

9. This Court framed a preliminary issue as to whether the domestic enquiry conducted by the respondent Management was fair and proper and whether the findings of the Enquiry Officer were perverse. After hearing both parties, this Court passed an order on the preliminary issue on 25.03.2025 and held that the domestic enquiry conducted by the respondent Management was fair and proper, at the same time the Court further held that the domestic enquiry is vitiated as biased and perverse. The matter was thereafter posted for further proceedings under Section 11-A of the Industrial Disputes Act, 1947. It is settled law that, where the domestic enquiry is held to be fair and proper, this Court can proceed to consider the

proportionality of the punishment under Section 11-A of the Industrial Disputes Act, 1947. The principles relating to the consideration of the validity of a domestic enquiry and the subsequent adjudication have been recognized by the Hon'ble Supreme Court in *Cooper Engineering Ltd. v. P.P. Mundhe, AIR 1975 SC 1900*. In the said judgment, it was held as follows:

“22. We are, therefore, clearly of opinion that when a case of dismissal or discharge of an employee is referred for industrial adjudication the Labour Court should first decide as a preliminary issue whether the domestic enquiry has violated the principles of natural justice. When there is no domestic enquiry or defective enquiry is admitted by the employer, there will be no difficulty, But when the matter is in controversy between the parties that question must be decided as a preliminary issue. On that decision being pronounced it will be for the management to decide whether it will adduce any evidence before the labour court. If it chooses not to adduce any evidence, it will not be thereafter permissible in any proceeding to raise the issue. We should also make it clear that there will be no justification for any party to stall the final adjudication of the dispute by the Labour Court by questioning its decision with regard to the preliminary issue when the matter, if worthy, can be agitated even after the final award. It will be also legitimate for the High Court to refuse to intervene at this stage. We are making these observations in our anxiety that there is no undue delay in industrial adjudication.”

On careful perusal of the above-stated law laid down by the Hon'ble Supreme Court, it is clear that, if the Labour Court comes to the conclusion that the enquiry conducted by the respondent Management is vitiated, an opportunity should be given

to the respondent Management to prove the charges by producing additional evidence before the Court. In compliance with the procedure prescribed by the Hon'ble Supreme Court, this Court has given a fair opportunity to the respondent Management to produce evidence before this Court to prove the charges made against the petitioner member. Though this Court gave an opportunity to the respondent Management to produce additional evidence on its side to prove the charges, it has not chosen to produce any evidence before this Court. The learned counsel appearing for the respondent Management made an endorsement on 10.07.2026 to the effect that there was no oral evidence on its side. Therefore, it is clear that the respondent Management has not chosen to produce any additional evidence to prove the charges made against the petitioner member. Thereafter, this Court holds that the punishment imposed by the respondent Management on the basis of the vitiated enquiry are liable to be set aside.

10. In this case, the main charge against the petitioner member is that he was responsible for the accident that took place on 02.10.2014 and that the accident occurred due to his rash and negligent driving. The said allegation projected by the respondent Management was totally denied by the petitioner member before the Enquiry Officer. The respondent Management has not examined any eyewitness to prove the charges made against the petitioner member. To prove the charges of rash and negligent driving against the petitioner member, the examination of an eyewitness would be relevant to establish the manner of occurrence. The Enquiry

Officer cannot presume the manner of occurrence merely on the basis of inadmissible hearsay evidence given by a witness who had not directly seen the occurrence. In this case, the Enquiry Officer came to the conclusion that the accident occurred only due to the rash and negligent driving of the petitioner member without examining any eyewitness to the occurrence. The said finding arrived at by the Enquiry Officer is arbitrary and unsustainable and is liable to be set aside.

11. The learned advocate appearing for the petitioner, during the course of his argument, would submit that the respondent Management had taken a different stand before the Motor Accident Claims Tribunal regarding the manner in which the accident occurred. It is submitted that, when the respondent Management had taken a stand before the Motor Accident Claims Tribunal that the driver of the bus was not responsible for the accident, it cannot now take a contradictory stand before this Court. To establish the stand taken by the respondent Management before the Motor Accident Claims Tribunal, the petitioner produced the copy of the order passed in MCOP No.63/2015 dated 26.10.2016, which was marked as Ex.W10. On careful perusal of Ex.W10, it is clear that the respondent Management had taken a stand that the driver of the bus bearing Registration No. TN-38-N-2866 was driving the bus by following all traffic rules at a minimum speed and was not responsible for the accident. Further, it was the specific stand taken by the respondent Management that the accident occurred only due to the rash and negligent act of the driver of the two-wheeler bearing Registration No. TN-39-T-9644. Thus, it is clear that the

respondent Management had taken contradictory stands in the domestic enquiry proceedings and before the Motor Accident Claims Tribunal. Such an approach is not acceptable and the Hon'ble Supreme Court has also disapproved the practice of taking contradictory stands in its recent judgment in *Maharashtra State Road Transport Corporation v. Mahadeo Krishna Naik*, reported in *2025 INSC 218*, wherein it was held as follows:

“ 29. We are conscious that the law of evidence per se does not apply to industrial adjudication. Nevertheless, the general principles do apply. In any event, in industrial adjudication, principles of natural justice have to be complied with. Fairness in procedure has developed as the third limb of natural justice. The manner in which the Corporation conducted itself before the Labour Court does not behove a creature of a statute. It has been far from fair in its dealings with Mahadeo.

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.

31. In State of M.P. v. Narmada Bachao Andolan, a three-Judge Bench of this Court observed :

“164. It is a settled proposition of law that a false statement made in the Court or in the pleadings, intentionally to mislead the Court and obtain a favourable order, amounts to criminal contempt, as it tends to impede the administration of justice. It adversely affects the interest of the public in the administration of justice. Every party is under a legal obligation to make truthful statements before the court, for the reason that causing an obstruction in the due course of justice ‘undermines and obstructs the very flow of the unsoiled stream of justice, which has to be kept clear and pure, and no one can be permitted to take liberties with it by soiling its purity.’

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. ”

33. This Court in Union of India v. N. Murugesan while holding that it will be inequitable and unfair if a party is allowed to challenge a position while enjoying its fruits, ruled :

“26. These phrases are borrowed from the Scots law. They would only mean that no party can be allowed to accept and reject the same thing, and thus one cannot blow hot and cold. The principle behind the doctrine of election is inbuilt in the concept of approbate and reprobate. Once again, it is a principle of equity coming under the contours of common law. Therefore, he who knows that if he objects to an instrument, he will not get the benefit he wants cannot be allowed to do so while enjoying the fruits. One cannot take advantage of one part while rejecting the rest. A person cannot be allowed to have the benefit of an instrument while questioning the same. Such a party either has to affirm or disaffirm the transaction. This principle has to be applied with more vigour as a common law principle, if such a party actually enjoys the one part fully and on near completion of the said enjoyment, thereafter questions the other part. An element of fair play is inbuilt in this principle.” ”

On careful perusal of the above-stated law laid down by the Hon'ble Supreme Court, it is clear that the respondent Corporation cannot resile from the stand taken in the pleadings before the Motor Accident Claims Tribunal while initiating disciplinary proceedings against the petitioner member. The said approach adopted by the respondent Management is unfair and contrary to the principles of natural justice and fairness in procedure. In view of the above-stated law laid down by the Hon'ble Supreme Court, this Court holds that the charge framed by the respondent Management alleging that the accident occurred solely due to the rash and negligent driving of the petitioner member is unsustainable. Consequently, the findings of the

Enquiry Officer based on the said charge and the punishment imposed by the respondent Management pursuant thereto are also liable to be set aside. Accordingly, the punishment order is liable to be set aside. The petitioner member suffered suspension only on the basis of the impugned charges for a period of 30 days from 04.10.2014 to 02.11.2014. Since the main punishment is set aside, the suspension period is also held to be treated as duty period and the petitioner is hereby ordered to receive the monetary benefits arising out of the same. The Court hereby deems fit and proper to grant three months time to settle the entire monetary benefits arising out of the setting aside of the impugned punishment. Failing which, the Court deems appropriate to impose interest at the rate of 9% per annum from the date of default to till the date of realization. Both parties shall bear their cost of litigation.

12. **In the result**, the reference in TN GO.MS.No. 530 dated 16.10.2023 of Tamil Nadu Labour Welfare and Skill Development (D1) Dept. is hereby answered as follows:

1). The punishment of stoppage of increment for a period of two years with cumulative effect imposed by the punishment order dated 27.07.2016 is hereby set aside.

2). The petitioner member's suspension period between 04.10.2014 to 02.11.2014 (30 days) is ordered to be treated as duty period and that his deduction of earned leave towards the same is hereby re-credited to the leave account of Mr. S. Manivel.

3). The petitioner member is entitled to the consequential monetary benefits in view of setting aside of the punishment order dated 27.07.2016.

4). Three months time is granted to the respondent to settle the entire monetary arrears accruing out of the setting aside of the impugned punishment.

5). Failing which, the petitioner is entitled to interest at the rate of 9% per annum for the accrued arrears from the date of default to till date of realization.

6). Both parties are directed to bear their own cost of litigation.

(Dictated to the Steno Typist, Transcribed by her, Corrected and Pronounced by me, on this, Wednesday, the 12th day of August 2026)

(Sd/- K. Lingam)

**PRESIDING OFFICER,
ADDITIONAL LABOUR COURT,
COIMBATORE.**

LIST OF WITNESSES EXAMINED

For Petitioner Side : Nil

For Respondent Side : Nil

LIST OF EXHIBITS MARKED.**For Petitioner side :-**

Exhibits	Documents	Date	Remarks
Exhibits	Documents	Date	Remarks
Ex.W 1	Petitioner sent a letter to the branch manager	03.10.2014	Xerox
Ex.W 2	Charge memo issued by the management	23.10.2014	Xerox
Ex.W 3	Findings of the enquiry officer	20.05.2016	Xerox
Ex.W 4	Notice issued by the management	01.07.2016	Xerox
Ex.W 5	Letter sent by the petitioner to the General Manager	12.07.2016	Xerox
Ex.W 6	Punishment Order issued by the management	27.07.2016	Xerox
Ex.W 7	Letter sent by the petitioner to the Managing Director	-	Xerox
Ex.W 8	Copy of Judgment in CC. No. 667/2017 by JM-III, Tirupur	25.11.2019	Xerox
Ex.W 9	Petitioner's appeal petition before the Managing Director	15.09.2020	Xerox
Ex.W 10	Copy of Judgment in MCOP. No. 63/2015 Passed by the MCOP Court, Theni	26.10.2016	Xerox

For Respondent side :- Nil**(Sd/- K. Lingam)**

**PRESIDING OFFICER,
ADDITIONAL LABOUR COURT,
COIMBATORE.**

Fair/Draft
Preliminary Award
in OP 60/2023
Dt : 12.08.2026
ALC, CBE