

IN THE COURT OF THE LABOUR COURT AT SALEM

Present: Mrs. M. Shanthi, B.Sc., B.L.,
Presiding Officer,
Labour Court, Salem.

Monday, dated this 30th day of March 2026.

I.D. No.40/2021

CNR No. TNSA020001152021

K. Ravi, (Aged 50 years)

S/o. Kuppusamy,

1/9, North Street,

Valakkombai, Kengavalli,

Salem District – 636 113.

... Petitioner

-Versus-

The General Manager,

Tamil Nadu State Transport Corporation (Salem) Limited,

12, Ramakrishna Road,

Salem – 636 007.

... Respondent

This Industrial Disputes petition came up for final hearing before this court on 16.03.2026 in the presence of Mr. Pon. Ramani, Authorized representative for the petitioner, and Mr. P. Ravi Shankar, Advocate for the respondent and after perusing material records of both side and written argument of respondent side, upon hearing both side arguments and having stood over till this day for consideration, this court had passed the following :-

AWARD

This Industrial disputes original petition had been filed under Section 2A(2) of Industrial Disputes Act 1947 to set aside the order of dismissal of petitioner dated 17.11.2020 passed by respondent and to reinstate the petitioner with continuity of service, back wages and other benefits with litigation cost.

The averments of the petition in brief :

1. The petitioner had joined the service of the respondent transport corporation as a Driver, Dr.No.2887 on 28.06.1993. He had last performed his duties at Johnsonpet-1 Branch. By an order dated 17.11.2020, the respondent had permanently dismissed from service on the grounds of fatal accident charge. His monthly salary was Rs. 35,000/-. The respondent, having fabricated a charge sheet dated 18.02.2020 against the petitioner, alleged therein that on 18.01.2020, while he was on duty in bus TN 30 N 1509 on the Salem-Madurai route traveling from Madurai towards Salem, he had caused a fatal accident near the A Vellode diversion near Dindigul at 11:30 a.m. by collided with a lorry that was watering plants in the center median of the road. On these grounds, the petitioner was placed under interim suspension from 19.01.2020 and an explanation was sought from him.

2. The petitioner had urged the respondent through letters dated 09.03.2020, 15.05.2020, and 29.06.2020 to provide subsistence allowance and copies of documents to enable him to explain the charges. Without providing the subsistence allowance or documents, the respondent unilaterally had ordered an inquiry,

fabricated the inquiry proceedings note in favor of the management, and concluded that the charges were proved in the inquiry. Subsequently, the respondent had fabricated and issued a Second Show Cause Notice dated 27.10.2020 seeking an explanation from the petitioner regarding the proposed punishment. The respondent, without considering the request and explanation submitted by the petitioner on 31.10.2020 and 04.11.2020, had permanently dismissed the petitioner from service by an order dated 17.11.2020.

3. The driver who operated the lorry for the task of watering plants in the middle of the road is responsible for the accident, as he acted without any signals or barriers. Since the lorry belongs to the Highway Toll Plaza management, it is unjust that the police and the respondent have taken action against the Petitioner under their influence. The officer who inspected the accident has complained against the petitioner was based on conjecture. The accident happened because the lorry driver suddenly turned the lorry from the right side to the left without any signal. It was not clarified in the charges which specific act of the petitioner made him responsible for the accident. The fabrication of vague and non-specific charges is not valid.

4. The respondent sent the notice dated 17.10.2020 seeking the petitioner opinion on the Inquiry Officer's findings on 19.10.2020. This notice was received by him only on the evening of 22.10.2020. The petitioner had sent a letter by registered post on 28.10.2020 seeking time to provide an explanation to the notice seeking opinion. The

respondent received this on 29.10.2020. In this situation, without granting the time requested by the petitioner, the respondent had fabricated a Second Show Cause Notice on 31.10.2020 and back dated it to 27.10.2020, which confirms the mala fide intention of the respondent. It is improper that the respondent had passed the dismissal order on 17.11.2020 without applying his mind or considering the requests contained in the petitioner letters dated 31.10.2020 and 04.11.2020.

5. Regarding a charge that on 17.11.2017, a Corporation Driver named Mr. Murugasundaram, who was operating bus TN 30 N 1334 towards Coimbatore on the Coimbatore-Salem National Highway, collided with a tanker lorry watering plants from the center median near Chittode, causing the death of one person and injuries to many, he was not awarded the punishment of dismissal in the disciplinary action taken against him. On the contrary, dismissing only the petitioner union member is a discriminatory and retaliatory action.

6. In the cases filed by the victims of the accident seeking compensation, the respondent has filed counter statements asserting that there was no fault on the part of the petitioner and that he had operated the bus carefully under control. Having taken the stand in the compensation cases that there was no fault on the part of the petitioner, it is a contradictory action by the respondent to dismiss the petitioner in the disciplinary proceedings by claiming he caused the accident.

7. Against the illegal termination order of the respondent, the petitioner had raised a dispute under Section 2A(1) before the Assistant Commissioner of Labour, Salem, on 14.12.2020. The dispute was taken on file as Na.Ka.No.380/2020, and conciliation proceedings have been pending since 21.01.2021. The respondent filed a counter statement on 31.03.2021 fabricating facts contrary to the truth. Conciliation proceedings must be completed within 45 days of filing a petition under Section 2A(2). However, although the conciliation proceedings are concluded, the Conciliation Failure Report has not yet been issued. Hence petitioner had prayed to allow the petition claim.

The averments of the written statement in brief:

8. The petitioner union member, while working on the bus TN 30 N 1509 on 18.01.2020, had caused a fatal accident in connection with which disciplinary action was taken and a domestic inquiry was conducted and as per the order dated 17.11.2020, he was permanently dismissed from service. Since a general Industrial Dispute (ID No: C1/021891/2018) common to all Transport Corporations is pending, seeking approval for the petitioner's dismissal Approval Petition No.203/2020 under Section 33(2)(b) of the Industrial Disputes Act 1947, was filed before the Special Joint Commissioner of Labour, Chennai, and while the said petition is pending before the said Commissioner, this petition filed by the petitioner before this Hon'ble Court is not maintainable.

9. The petitioner had been appointed as a daily-wage driver in the respondent Transport Corporation on 28.06.1993. Later, from 01.05.1994, his service was regularized and he had continued to work. Since he had caused a fatal accident while working on the bus TN 30 N 1509 on 18.01.2020, and since he had caused three similar fatal accidents previously, the respondent Transport Corporation had permanently dismissed the petitioner from service as per the order dated 17.11.2020.

10. On 18.01.2020, while the petitioner had assigned and working on the bus TN 30 N 1509 on the Salem-Madurai route, he took the trip from Madurai at 10:35 a.m. towards Salem and at around 11:50 a.m. while approaching the A. Vellode diversion on the Madurai-Dindigul National Highway, he drove the Corporation bus at high speed in a negligent manner had collided the front-right side of the Corporation bus into the rear of a water tanker lorry numbered TN 34 J 8419, which was surrounded by red color cones and was watering flower plants in the middle of the road (center median) on the right side of the road. Due to the collision, the lorry turned and climbed onto the center median and hit a male person who was watering plants behind the right side of the lorry, causing him grievous injuries to the head and right leg.

11. Three male passengers and three female passengers traveling in the bus were also injured and were sent to Dindigul Government Hospital and JCB Private Hospital via 108 ambulance and private ambulance for treatment. However,

Mr. Govindaraj (age 61), who was watering the plants was under treatment at Dindigul Hospital was died without responding to treatment. Due to the accident, heavy damage was caused to the front side of the respondent Corporation bus and the rear of the lorry.

12. Regarding the said accident, a case was registered against the petitioner at Dindigul Police Station in Cr. No.18/2020 under Sections 279, 337 of the Indian Penal Code. Hence he placed under interim suspension from 19.01.2020. Later, the interim suspension order was relaxed, and as per the order dated 19.02.2020, he was permitted to work again. For the days under suspension, petitioner had been paid the interim eligibility salary.

13. Regarding the accident caused by the petitioner, the following charges were framed against him:

1. Causing a fatal accident by driving the Corporation bus in a negligent, irresponsible, and uncontrolled manner.
2. Being the cause for damage to the Corporation bus and the lorry, the death of one person, and injuries to 7 persons, including the passengers and the Corporation driver.
3. Being the cause for loss of reputation to the Corporation.

14. The charge memo dated 18.02.2020 containing the above charges was sent to the petitioner via registered post with acknowledgment due, and an explanation was sought for. He had received it on 07.03.2020 and did not submit any explanation or request any time extension. Therefore, a domestic inquiry was ordered against him by informing that the inquiry would be held on 30.06.2020, the inquiry notice dated 17.06.2020 was sent to the him via registered post with acknowledgment due.

15. The petitioner had received it on 27.06.2020 and, as per a letter dated 29.06.2020, requested copies of the basic complaint, the Police First Information Report, the Administration's First Information Report, the map of the scene of the occurrence, and details regarding loss of life and property damage to provide an explanation for the inquiry. Accordingly, the documents sought by the him were sent to his home address via registered post with acknowledgment due as per the letter dated 23.07.2020.

16. The petitioner had received them on 03.08.2020 and did not submit any explanation to the charge memo. After conducting domestic enquiry the enquiry officer had submitted his report dated 14.10.2020 stating that all charges against the petitioner were clearly proved in the enquiry. Attaching the copies of the inquiry proceedings and findings, the inquiry notice dated 17.10.2020 was sent to the petitioner via registered post with acknowledgment due, asking him to submit his comments on the inquiry which was received by him on 21.10.2020.

17. Since the petitioner had previously driven the bus in a negligent manner during his past service and caused three fatal accidents in the same way and caused 13 minor accidents causing damage to buses, and despite minor punishments were awarded, the petitioner did not change his attitude and repeatedly acted in the same manner, a show-cause notice dated 27.10.2020 was issued to him asking for an explanation as to why he should not be permanently dismissed from his job.

18. The petitioner had received it on 03.11.2020 and the explanation submitted on 04.11.2020 was not satisfactory. Permission was granted for the petitioner to rejoin his duty as per the order dated 19.02.2020 and a letter dated 19.02.2020 was sent. However, the petitioner did not report for duty. The Corporation has paid Rs. 21,57,100/- as compensation for the fatal accident caused by this petitioner on 18.01.2020 by driving the bus negligently. The petitioner was permanently dismissed from service as per the order dated 17.11.2020. The said dismissal order had been sent to the petitioner via registered post with acknowledgment due and he had received it on 20.11.2020.

19. In a personal domestic inquiry, the Hon'ble Supreme Court has passed an order in the case of "Cholan Roadways Limited Vs. G. Thirugnanasambandam" (Appeal (Civil): 3392 of 2002, dt 17.12.2004) stating that it is sufficient if the inquiry officer conveys his conclusion based on the principle of "preponderance of probability" and the principle of "Res ipsa loquitur."

20. During his tenure of service, the petitioner had already been punished 30 separate occasions for various acts of misconduct. This act of the petitioner is an act of indiscipline according to Corporation Standing Order No. 19(i)(ad). Punishment was awarded to the petitioner union member only on the basis of the indiscipline he had committed. Hence the petitioner's claim is liable to be dismissed.

21. For petitioner side P.W.1 was examined and Ex.P1 to Ex.P7 were marked and for respondent side M.W.1 was examined and Ex.R1 to Ex.R18 were marked.

Point for consideration :-

1. Whether the respondent had proved the charge of causing fatal accident due to rash and negligent driving by petitioner as mentioned in charge memo issued by respondent ?

2. Whether the claim of petitioner to set aside the dismissal order dated 17.11.2020 passed by respondent can be allowed as prayed for ?

3. Whether the petitioner is entitled for back wages with continuity of service and other benefits under Section 2A(2) of Industrial Disputes Act 1947?

Findings on Point 1 to 3:-

22. All the points are taken up together for common consideration for brevity in discussions. According to the petitioner, he had joined as driver in the respondent transport corporation on 28.06.1993 and dismissed on 17.11.2020 on the charge of causing fatal accident and the respondent did not examine eye witness, defacto

complainant or any passengers traveled in the bus and the persons present in the scene of crime and the management without considering the fact that the lorry driver who drove the lorry for watering the plants in the divider of the road had turned the vehicle from right side to left side without any signal and responsible for accident and since the lorry belonged to the toll gate management and utilizing the said influence, the police authority and the respondent took action against the petitioner is against law.

23. The inspecting officer based on assumption had given complaint against the petitioner and the management for the similar charge against another driver Mr. Murugasundaram who involved in fatal accident on 17.11.2017 hit the bus against the tanker lorry which is used for watering the plants and caused fatal injury to one person and injuries to several other persons did not dismiss him and the dismissal of petitioner based on unproved charges is an act of revenge.

24. Further in the accident compensation claim cases, the respondent had filed counter statement stating that the bus driver was not responsible for the accident and took contrary view in disciplinary proceedings and dismissed the petitioner by wrongly giving previous punishment details and prayed to allow the petition claim.

In support of petitioner contentions, the following citations were submitted,

1. 2024-IV-LLJ-498(MAD)
2. 2025-IV-LLJ-168(MAD)

25. Whereas according to the respondent the petitioner towards causing fatal accident while driving the corporation bus in 18.01.2020 for which he was dismissed after taking disciplinary action and the respondent due to pendency of common dispute had filed approval petition for dismissal under Section 33(2)(b) before Special Joint Commissioner of Labour, Chennai in A.P.No.203/2020 which is pending and hence the dispute is non maintainable as per the decision of Hon'ble High Court of Madras in The Management, TamilNadu State Transport Corporation, Salem Vs. The Joint Commissioner of Labour (Conciliation), Chennai and other, dated 05.01.2012.

26. The petitioner had already caused 3 fatal accidents and the petitioner while driving the corporation bus bearing Registration No. TN 30 N 1509 on 18.01.2020 in Salem – Madurai route and took the trip from Madurai at 10.35 a.m. for Salem and at about 11.50 a.m. had reached A.Vellode privu in Madurai – Dindugal National High Ways had dashed behind lorry which was watering the plants in the median of road due to which the lorry had turned and jumped over the center median and hit a male person who was watering the plant behind the lorry who had sustained serious injuries in his head and right leg and later succumbed to injuries and also 6 passengers traveled in the bus got injured.

27. In this regard, Dindugal police has registered a case in Cr.No.18/2020 and the petitioner was temporarily suspended on 19.01.2020 which was later revoked on 19.02.2020 and eligible salary was given for the suspension period and the petitioner

was issued charge memo dated 18.02.2020. Since his explanation was not found satisfactory and after conducting enquiry second show cause notice had been issued on 27.10.2020 and his reply was found unsatisfactory and due to the rash and negligent driving of the petitioner, the respondent had paid compensation of Rs.21,57,100/-. Hence the respondent had lost confidence on petitioner and considering the earlier 30 punishments imposed against petitioner for his various misconducts, he was dismissed from service by order dated 17.11.2020 along with one month pay amount.

28. During enquiry the respondent had clearly proved the charges against the petitioner before the Hon'ble Court and the criminal case against the petitioner in C.C.No.647/2022 is pending before Judicial Magistrate Court, Dindugal. Ex.R3 documents containing First Information Report, detail of deceased and injured, photos of lorry, damage to the lorry and rough sketch would show the negligence of the petitioner. The petitioner did not prove the accident was not caused due to his rash and negligent driving. During cross examination P.W.1 had admitted details of accident and in M.C.O.P. award, the negligence had been fixed on the driver of the bus. Further P.W.1 in cross examination admitted that he had renewed his license till date and his wife is working as police and having sufficient source of income.

29. As per the decision of Hon'ble Madras High court in The Management, Tamil Nadu State Transport Corporation Limited, Salem Vs. N. Sivakumar dated 23.07.2024, the management having taken contrary plea before two forums and the

petitioner cannot utilize the same as defence. Further the petitioner had been previously punished for 30 times and already caused 3 fatal accidents and 13 minor accidents for which only minor punishments were imposed as shown in Ex.R16 service register. Since the petitioner did not change his attitude, he was permanently dismissed from service which is fair one and prayed to dismiss the petition. The respondent in support of their contentions had submitted following citations.

1. M.Chellathami Vs. Presiding Officer, Labour Court dated 31.10.2003 by Hon'ble High Court of Madras
2. (2009) 07 Mad ck 0339
3. The Management of Thiruvalluvar Transport Corporation Limited Vs. K. Ayyavo and another dated 09.03.1999

30. Before considering merits of the case, it has be decided that whether the pendency of approval petition in A.P.No.203/2020 filed by respondent before Special Joint Commissioner of Labour, Chennai under Section 33(2)(b) of Industrial Disputes Act for approval of dismissal of petitioner would be a bar for deciding the industrial dispute petition before this Court. Merely because the approval petition filed by the respondent employer is pending before the authority this petition cannot be held as not maintainable. Because both the proceedings are independent of each other as the reliefs claimed are not identical and under Section 33(2)(b) the specified authority can only grant or with hold permission and the authority cannot adjudicate the dispute between the parties as of this dispute before this Court.

31. It is well settled principle that even after the approval is given, it is open for the workman to raise a dispute against his dismissal by filing petition under Section 2A(2) of Industrial Disputes Act 1947. In this regard, the Hon'ble Supreme Court of India in H.D.Sharma Vs. Northern India Textiles Research Association and another, dated 28.03.2020 had observed as follows,

“11) By order dated 28.03.2000, this Court allowed the appeal, set aside the order of the High Court and remanded the case to the High Court. This Court held that firstly, the scope of proceedings under the two provisions was entirely different; and secondly, since the Act provided separate rights, protection and remedies to the parties for prosecuting these proceedings, the disposal of one proceedings would not bring to an end the other. The High Court was, therefore, requested to decide the writ petition afresh on merits keeping in view the observations made.”

32. As per the dictum of Hon'ble Apex Court this Court is of the view that the petitions under Section 2A(2) and Section 33(2)(b) of Industrial Disputes Act 1947 are independent to each other and this Court cannot reject the claim of petitioner due to pendency of approval petition and the present petition before this Court is maintainable in law. Hence, the objection of respondent in this regard is liable to be rejected.

33. The records reveals that on consent of both side the fairness of domestic enquiry had been taken up as preliminary issue and on merits this Court had already

decided that the domestic enquiry conducted by the management against the petitioner is against law and principle of natural justice and set aside the same by the order dated 07.11.2022 by observing that when the documents were not marked through evidence of witness how the documents had been mentioned as marked documents in the enquiry report and no evidence had been produced to show who had cross examined the delinquent and the claim of petitioner that the enquiry officer himself had cross examined the delinquent was found acceptable and no evidence had been produced to show subsistence allowance was paid to the petitioner.

34. Then the respondent was given opportunity to independently prove the charges against the petitioner before this Court by producing oral and documentary evidence. Then the respondent had examined Mr. Selvakumar being the Assistant Manager in Disciplinary Section of respondent as M.W.1 and marked 17 documents then the petitioner had examined himself as P.W.1 and marked 7 documents.

35. The charge against petitioner as per Ex.M4 charge memo dated 20.01.2020 is that the petitioner on 18.01.2020 while plying the bus TN 30 N 1509 in Madurai to Salem route while reaching near A Vellode privu at about 11.50 a.m. had dashed behind the tanker lorry which was watering the plants in the right side center median of the road due to which the lorry had turned and jumped into the center median and dashed against the person who was watering the plant in right side of the lorry and caused fatal accident and due to the accident damage was caused to the bus and lorry

apart from injuries to 7 passengers of the bus including the driver which is an act of misconduct under Rule 19(1)(a)(d) of standing order.

36. Though the petitioner had contended that he had given letter Ex.P1 letter dated 29.06.2020 to grant him copies of document and there is no acknowledgment available to show the respondent had received the same. Further it had been already decided the preliminary issue that the petitioner did not submit any reply for the said memo. On perusal of Ex.M2 First Information Report in Cr.No.18/2020 it had been registered against the petitioner that the accident was happened due to rash and negligent driving of the petitioner. But, as contended by the petitioner either the defcto complainant or the investigation officer who had registered the case had not been examined.

37. It is well settled principle that mere production of documents will not prove the charge unless there is evidence in support of the same. Though the First Intimation Report had been given by branch manager who is only a hearsay witness and issuance of such report had not been mentioned in the charge memo given to the petitioner. The said report was not comprehensive as the details of driver and insurance details of the lorry had not been mentioned.

38. It is pertinent to note that the petitioner was also injured in the said accident. Even though the photographs of damaged bus is available as admitted by M.W.1 in cross examination, the photo of the accident involved lorry was not taken and the

photo of the bus was taken while the bus was parked in the police station. As per charge the lorry had jumped over the center median and hit the person watering the plant due to which he was died. But as per Ex.M2 First Information Report, the bus was driven in rash and negligent manner from south to north direction and hit the deceased Mr. Govindan due to which he had sustained grievous injuries in his head and body and the bus stopped by hitting behind the lorry.

39. Hence there were two versions of occurrence available as per prosecution case namely as according to criminal prosecution the bus had directly hit the deceased and then hit the lorry and as per the disciplinary proceedings the bus hit behind the lorry which ran over the center median and hit the person watering the plant in the right side who had sustained fatal injury. Admittedly none of the eye witnesses, passengers of the bus or the residents of the said area had been examined to prove the occurrence. Likewise as per the version of respondent seven persons were injured in the occurrence and the details of the injured were clearly mentioned in the First Information Report of Assistant Engineer, Accident division. The respondent did not taken steps to examine any of them.

40. It is true that it is always not necessary to examine eye witness to prove the charge of rash and negligent driving in disciplinary proceedings. At the same time there must be some evidence to substantiate the serious punishment of dismissal. But in this case the respondent management but for the reasons known to them did not

examine the conductor of the bus who would have direct knowledge about the occurrence. It is the contention of respondent that the legal heirs of deceased had filed compensation claim for accident and in the same, the tribunal had decided that the accident was happened only due to the rash and negligent driving of the petitioner. But the respondent did not file copy of the award and conveniently suppressed the same despite having knowledge about the said proceedings.

41. But Ex.P7 as the counter statement filed by the management in M.C.O.P.No. 298/2020 reveals that the management had clearly stated as the driver of the bus is not responsible for the accident and in para 4 of the counter statement had specifically stated that the petitioner had driven the bus near the toll gate by observing road safety rules by blowing horn and at that time the driver of the tanker lorry had parked the lorry without any signal in the middle of the road. In the situation when the person who had been watering the road side plants had tried to cross the road suddenly and the driver of the bus had tried to stop the vehicle due to which the bus hit the said Mr. Govindan as well as the said tanker lorry. In fact in para 5 of the counter statement the respondent had specifically stated that the First Information Report had been registered against the bus driver without proper investigation and the same cannot be considered as evidence according to Section 14(e) of Indian Evidence Act.

42. Hence it is clear that the respondent had not only stated as the petitioner is not responsible for the accident and in fact the lorry driver is responsible for the accident and the First Information Report is not a correct evidence. But, in the disciplinary proceedings the respondent had taken a contrary view and fixed entire responsibility upon the petitioner by stating the petitioner is solely responsible for the fatal accident. In this regard, the Hon'ble Supreme Court of India in Maharashtra State Road Transport Corporation Vs. Mahadeo Krishna Naik dated 14.02.2025 had observed that,

“25. Before the Labour Court, the Corporation did not leave any stone unturned to establish that not only was the inquiry conducted against Mahadeo fair, but the conclusion arrived at in course of such inquiry that Mahadeo was guilty of misconduct in rashly and negligently driving the bus of the Corporation leading to loss suffered by it was established upon due consideration of the materials on record. Having regard to the clear and specific stand taken before the MACT in its written statement, which has been quoted above, the Corporation did make a false representation before the Labour Court amounting to suggestio falsi. Also, having not disclosed before the Labour Court the outcome of the proceedings before the MACT, a fortiori, that it had not been found liable to pay any compensation to the passengers who either died and were injured based on what the version in the written statement was and the argument advanced on its behalf to absolve itself of any liability, the Corporation is also guilty of suppressio veri.

26. *The conduct of the Corporation when Mahadeo was struggling to find a foothold before the single judge in view of the contours of judicial scrutiny of awards of industrial adjudicators cannot also escape notice. Perhaps, the Corporation thought that the proceedings before the MACT not having been brought to the notice of the Labour Court by Mahadeo previously, he was blissfully ignorant of the same and, therefore, the Corporation would steal a march over him by not making the appropriate disclosure. The Corporation was caught off-guard when Mahadeo produced the written statement and the award of the MACT before the single judge in his review petition.*

27. *The relevance of the MACT judgment and its probative value to the case at hand cannot be gainsaid. To be relevant, a piece of evidence relied on by a party must be shown to have some logical connection to the case and its admission would be necessary to prove or disprove a fact. Once the evidence is found to be relevant and is admitted arises the question of its probative value. Probative value, as is well-known, refers to the weight or persuasive power of the evidence. It is not always necessary that a piece of evidence found relevant to a case would still demand significant probative value. An assessment has to be made by the court as to how convincing or persuasive the evidence is and how effective it would be to prove or disprove a fact.*

28. *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.

29. The Corporation did not deliberately refer to the award of the 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 the 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 the 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. In State of M.P. v. Narmada Bachao Andolan³¹, 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’.”

30. 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. This Court in Union of India v. N. Murugesan³² 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.”

31. The Corporation, without an iota of doubt, being in the dominant position has attempted and achieved success in stealing a march over Mahadeo by indulging in suggestio falsi and suppressio veri. The actions of the Corporation have resulted in Mahadeo being robbed of a stable livelihood and has caused irreparable harm to him. It would not behove any court, much less this Court, to allow such free reign to a

party. Omission, neglect and/or failure – whatever be the cause - the Corporation's non-disclosure of what its stand was before the MACT and what was ultimately held by the MACT to the Labour Court as well as the single judge is suppression of such high magnitude that it can safely be held to be akin to a clear fraud on court"

43. As per dictum of Hon'ble Apex Court, the respondent cannot approbate and reprobate same set of facts. Since the respondent took different stands in M.A.C.T. tribunal and in domestic enquiry their version is found to be unbelievable and unreliable one. There is not even a single evidence available to decide based on preponderance of probabilities that the charge against the petitioner stands proved. Based on above discussion this Court is of the view that the respondent had miserably failed to prove the charge of causing fatal accident by rash and negligent driving of the petitioner by oral and documentary evidence before the Court. The point no.1 is decided accordingly.

44. Since the main charge of causing fatal accident due to rash and negligent itself stands disproved, the question of consideration of alleged previous punishments imposed against the petitioner does not arise. Further, it is the contention of the petitioner that the similarly charged another workman namely driver Mr. Murugasundaram was not imposed the extreme punishment of dismissal and the same had not been denied by respondent which shows the dismissal of petitioner by management is an act of bias. The citations relied upon by the petitioner are fully relevant and the citations referred by respondent with due respect are not applicable

to the fact and circumstances of the present case. Hence the extreme punishment of dismissal order passed against the petitioner does not withstand the scrutiny of law and the dismissal order based on unproved charge against the petitioner is not in accordance with law which is liable to be set aside. The point no.2 is decided accordingly.

45. It is well settled principle that whenever the order of dismissal is set aside awarding of back wages, continuity of service and other benefits are not always automatic. While considering the fact that the petitioner had joined in the respondent corporation as driver on 28.06.1993 and worked for about 27 years and Ex.M16 service register of petitioner which reveals the petitioner had been previously punished for 30 times for various misconducts including causing of 3 fatal accidents and 13 small accidents and considering the conduct of the petitioner, this Court is of the view that the petitioner is not entitled either for back wages or for other attendant benefits and the point no.3 is decided accordingly.

In the result, the industrial dispute petition is partly allowed and the order of dismissal of petitioner dated 17.11.2020 passed by respondent is set aside and the respondent is directed to reinstate the petitioner with continuity of service, without back wages and other benefits. Parties are directed to bear their own cost.

Directly dictated to steno typist, typed by him, corrected and pronounced by me in the open court, the 30th day of March 2026.

Presiding Officer,
Labour Court, Salem.

APPENDIX OF EVIDENCE

List of Witness:-

For Petitioner Side :-

P.W.1 - Mr. Ravi (Petitioner)

For Respondent Side :-

M.W.1 – Mr. Selvakumar

List of Documents :-

For Petitioner Side :-

Ex.P1	29.06.2020	Letter submitted by the petitioner requesting copies of documents from the administration – Xerox
Ex.P2	31.10.2020	Petitioner's explanation letter - Xerox
Ex.P3	02.11.2020	Acknowledgment card - Original
Ex.P4	04.11.2020	Petitioner's explanation letter - Xerox
Ex.P5	06.11.2020	Acknowledgment card - Original
Ex.P6	15.07.2021	Conciliation Failure report - Original
Ex.P7	27.07.2022	Counter statement filed by the respondent in M.C.O.P.No. 298/2020 – Certified copy

For Respondent Side :

Ex.M1	27.05.2023	Authorization Letter from the General Manager of respondent corporation - Original
Ex.M2	18.01.2020	First Information Report from Dindigul Police Station (Crime No.18/2020) - Xerox
Ex.M3	01.02.2020	Transport Department's first information report, details of deceased and injured persons in the accident, details of the

		driver, photographs of the bus, rough sketch, damaged bus photo, damaged details of bus (total 7 pages) - Original
Ex.M4	20.01.2020	Temporary suspension order issued to petitioner – True copy
Ex.M5	12.02.2020	Acknowledgment card- Original
Ex.M6	18.02.2020	Charge Memo – True copy
Ex.M7	07.03.2020	Acknowledgment card - Original
Ex.M8	19.02.2020	Office order granting permission to resume duty- Original
Ex.M9	27.10.2020	Show Cause Notice– True copy
Ex.M10	03.11.2020	Acknowledgment card- Original
Ex.M11	17.11.2020	Order of permanent dismissal from service - Original
Ex.M12	20.11.2020	Acknowledgment card - Original
Ex.M13	17.11.2020	Approval petition filed by respondent before the Joint Commissioner of Labour, Chennai – Office copy
Ex.M14	-	Acknowledgment card - Original
Ex.M15	09.08.2021	Enquiry notice issued by The Special Joint Commissioner of Labour, Chennai - Xerox
Ex.M16	-	Service register of petitioner – Attested copy
Ex.M17	-	Details of compensation claim cases filed by injured / legal heirs of deceased due to the accident caused by petitioner – Attested copy
Ex.M18	31.10.2020	Explanation letter of petitioner - Original

Presiding Officer,
Labour Court, Salem.

LABOUR COURT, SALEM.

Fair Order copy

I.D.No. 40/2021

DATED : 30.03.2026

Before the Labour Court, Salem

I.D.No. 40/2021

Dated : 30.03.2026

Order pronounced

In the result, the industrial dispute petition is partly allowed and the order of dismissal of petitioner dated 17.11.2020 passed by respondent is set aside and the respondent is directed to reinstate the petitioner with continuity of service, without back wages and other benefits. Parties are directed to bear their own cost.

Presiding Officer,
Labour Court, Salem.