



W.P(MD)No.8454 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.8454 of 2022

and

W.M.P.(MD).No.6228 of 2022

The Management,
Tamil Nadu State Transport Corporation Tirunelveli Limited,
Nagercoil Region,
Nesamani Nagar,
Rani Thottam,
Nagercoil-629 001.

... Petitioner

Vs

L.Velayutham

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, by calling for the records relating to the impugned order passed by the Joint Commissioner of Labour, Chennai, by his order dated 09.08.2021 in A.P.No.146 of 2019 and quash the same as illegal.

For Petitioner : Mr.R.Rajamohan

For Respondent : Mr.S.Arunachalam



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ORDER

This Writ Petition has been filed challenging the impugned order passed by the Joint Commissioner of Labour, Chennai, by his order dated 09.08.2021 in A.P.No.146 of 2019

2. Heard Mr. R.Rajamohan, learned counsel appearing for the petitioner and Mr. S.Arunachalam, learned counsel appearing for the respondent.

3. The learned counsel appearing for the petitioner submitted that the respondent was employed as a daily wage driver in the petitioner Transport Corporation. On 23.12.2018, while driving the Corporation bus bearing Registration No.TN-74-N-1712 on Route No.555, he allegedly drove the vehicle in a rash and negligent manner, resulting in a major road accident in which six passengers lost their lives and seventeen passengers sustained injuries. According to the petitioner, the respondent had committed misconduct under Clauses 16(14) and 16(18) of the Certified Standing Orders.



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4. It is further submitted that immediately after the occurrence, the respondent was placed under suspension by proceedings dated 24.12.2018. A charge memorandum was issued, a domestic enquiry was conducted after affording sufficient opportunity to the respondent, and on the basis of the findings of the Enquiry Officer, the respondent was dismissed from service by order dated 23.12.2019.

5. The learned counsel further submitted that since an industrial dispute was pending, the petitioner filed Approval Petition No.146 of 2019 before the Joint Commissioner of Labour under Section 33(2)(b) of the Industrial Disputes Act, 1947 seeking approval of the order of dismissal. Simultaneously, one month's wages were paid to the respondent along with the dismissal order. However, the Approval Authority rejected the approval petition holding that (i) the domestic enquiry suffered from violation of the principles of natural justice and (ii) one month's wages had not been paid in accordance with law.

6. Assailing the said order, the learned counsel for the petitioner contended that the findings of the Approval Authority are legally unsustainable. It is



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submitted that adequate opportunity had been afforded to the respondent during the domestic enquiry and the enquiry was conducted in accordance with the principles of natural justice. Merely because independent eyewitnesses to the accident were not examined, the enquiry cannot be said to be vitiated. It is always for the management to decide the nature of evidence to be adduced before the Enquiry Officer, and neither the delinquent employee nor the Labour Authority can compel the management to examine particular witnesses.

7. The learned counsel further relied upon the judgment of the Hon'ble Supreme Court in ***Lalla Ram v. D.C.M. Chemical Works Ltd.***, wherein it has been held that while considering an application under Section 33(2)(b) of the Industrial Disputes Act, the authority is only required to examine whether a proper domestic enquiry was conducted, whether there was a prima facie case, and whether one month's wages had been paid together with the dismissal order. According to the petitioner, these requirements had been duly complied with and therefore the impugned order rejecting the approval petition is liable to be set aside.



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8. Per contra, the learned counsel appearing for the respondent submitted that the Approval Authority rejected the approval petition on two independent grounds, namely, (i) violation of the principles of natural justice in the conduct of the domestic enquiry and (ii) failure to pay one month's wages as contemplated under Section 33(2)(b) of the Industrial Disputes Act.

9. Elaborating the first ground, the learned counsel submitted that although the petitioner alleged rash and negligent driving against the respondent, not even a single independent eyewitness to the accident was examined before the Enquiry Officer. Only departmental officials were examined, none of whom had witnessed the occurrence. The respondent had consistently taken a defence that the accident was caused solely due to the negligence of another Transport Corporation bus, which came from behind and dashed against the bus driven by him after he had stopped the vehicle by hitting a lamp post in order to save the passengers from a head-on collision. Once such a specific defence had been raised, it was incumbent upon the management to establish the respondent's negligence by examining relevant witnesses. Failure to do so has rightly been held to be a violation of the principles of natural justice.



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10. Insofar as the second ground is concerned, the learned counsel submitted that though the petitioner claims to have paid one month's wages, the amount actually paid was only Rs.13,516/- (as reflected in the records), whereas the wages payable in terms of the 13th Wage Settlement, marked as Ex.W2, were higher. Therefore, the statutory requirement under Section 33(2)(b) was not satisfied. The Approval Authority, upon appreciating the evidence, rightly recorded a finding that one month's wages had not been paid in full.

11. The learned counsel further submitted that significantly, in the present writ petition, the petitioner has not specifically challenged the finding of the Approval Authority regarding non-payment of one month's wages. Since the approval petition was rejected on two independent grounds and one of the grounds has remained unchallenged, the writ petition itself is liable to be dismissed. He also relied upon a decision of this Court wherein, in similar circumstances, the writ petition was dismissed.

12. I have carefully considered the rival submissions made on either side and perused the materials available on record.



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13. The facts are not in dispute. The respondent was a temporary driver employed by the petitioner Corporation. The accident that occurred on 23.12.2018 resulted in the death of six passengers and injuries to seventeen others. While the petitioner attributes the entire negligence to the respondent, the respondent has consistently maintained that he had stopped the bus after hitting a lamp post in order to avoid a head-on collision and that another Corporation bus, which came from behind in a rash and negligent manner, dashed against his vehicle, resulting in the accident.

14. The records reveal that during the domestic enquiry, no independent eyewitness to the accident was examined. Only departmental witnesses were examined. Though it is true that the management has discretion to decide the witnesses to be examined in a domestic enquiry, where the entire charge rests upon alleged rash and negligent driving and the delinquent employee has raised a specific defence attributing negligence to another vehicle, examination of at least one material witness assumes significance for arriving at a fair conclusion. The Approval Authority has therefore found that the enquiry suffered from violation of the principles of natural justice.



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15. More importantly, the approval petition was rejected on yet another independent ground, namely, that the petitioner had not paid one month's wages in terms of Section 33(2)(b) of the Industrial Disputes Act. The Approval Authority, on appreciation of Ex.W2 and other documentary evidence, recorded a categorical finding that the amount paid was not in accordance with the applicable wage settlement.

16. Significantly, the petitioner has not specifically challenged this finding in the present writ petition. Once the rejection of the approval petition rests upon two independent grounds and one of those grounds has attained finality, interference under Article 226 of the Constitution of India is unwarranted. Even assuming that the petitioner succeeds on the first ground relating to the domestic enquiry, the approval petition would still fail on account of non-compliance with the mandatory requirement of payment of one month's wages under Section 33(2) (b) of the Industrial Disputes Act.

17. This Court has consistently held that compliance with the mandatory requirements under Section 33(2)(b) is a condition precedent for grant of



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approval. In the absence of such compliance, the approval petition cannot be allowed.

18. In view of the above discussion, this Court finds no infirmity or illegality in the order dated 09.08.2021 passed by the Joint Commissioner of Labour, Chennai, in Approval Petition No.146 of 2019 warranting interference under Article 226 of the Constitution of India.

19. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

06.07.2026

NCC : Yes / No
Index : Yes / No
TSG

To

The Joint Commissioner of Labour, Chennai.



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M.DHANDAPANI, J.

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