



W.A(MD)No.396 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2026

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CORAM
THE HONOURABLE MR. JUSTICE M.DHANDAPANI
and
THE HONOURABLE MR. JUSTICE N.DILIP KUMAR

W.A(MD)No.396 of 2021
and
CMP (MD) No.1449 of 2021

The Management
Tamilnadu State Transport Corporation
Madurai Division Limited,
Bye Pass Road,
Collectorate Post,
Dindigul.

: Appellants

Vs.

S. Pitchaimani, (Died)

1. P. Annamayil

2. P. Navinkumar

3. P. Boopathyraja

4. The Joint Commissioner of Labour (Conciliation),
Chennai - 600 006.

5. The Chairman,
Tamilnadu State Transport Corporation Ltd.,
Ezhilagam, Chepauk,
Chennai - 5.

... Respondents



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Prayer: This Writ Appeal is filed under Clause 15 of Letters Patent Act, against the order passed by this Court in W.P.(MD)No. 5542 of 2009 dated 23.02.2017.

For Appellants : Mr.J.Senthil Kumaraiah
For Respondents : Mr.S.Muniyandi (R1 to R3)
: Mr.G.Mohan Kumar, AGP (R4)

JUDGMENT

(Judgment of the Court was made by **M.DHANDAPANI.J.**)

This intra-Court Appeal has been filed challenging the order passed by the learned Single Judge of this Court in W.P.(MD)No.5542 of 2009, dated 23.02.2017.

2. The brief facts relevant for the disposal of the present writ appeal are as follows:

2.1 The legal heirs of the deceased workman are the respondents 1 to 3 herein. The deceased workman was appointed as a Conductor in the appellant-Corporation in the year 1995.

2.2. While he was in service, the deceased workman applied for leave for the period from 10.04.2002 to 26.05.2002 and from 25.06.2002 to



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01.08.2002, on account of the demise of his father and his own ailment. The said leave was not sanctioned by the appellant-Corporation and the period was treated as unauthorised absence.

2.3. Consequently, disciplinary proceedings were initiated against him and pursuant thereto, an order of dismissal from service was passed on 24.01.2003.

2.4. Thereafter, the appellant-Corporation filed an approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 and the same was allowed in favour of the appellant-Corporation.

2.5. Aggrieved by the same, the deceased workman filed W.P.(MD) No.5542 of 2009 before this Court. The learned Single Judge, by order dated 23.02.2017, allowed the writ petition. Challenging the said order, the present appeal has been filed.

3. The learned counsel appearing for the appellant-Corporation would submit that, while considering the approval petition under Section 33(2)(b) of the Industrial Disputes Act, the learned Single Judge applied the principles laid



down by the Hon'ble Supreme Court in ***Lalla Ram v. D.C.M. Chemical Works Ltd.***, reported in ***AIR 1978 SC 1004***, and came to the conclusion that the procedure contemplated therein had not been followed. It is submitted that the learned Single Judge erred in interfering with the order passed by the competent authority and in holding that the punishment imposed was highly disproportionate. Hence, the learned counsel would pray for setting aside the order passed by the learned Single Judge.

4. Per contra, the learned counsel appearing for the legal heirs of the deceased workman would submit that the principles laid down in ***Lalla Ram*** (cited supra) require the authority considering an approval petition under Section 33(2)(b) to examine, *inter alia*, whether a proper domestic enquiry was conducted and whether there was a *prima facie* case against the workman. It is further submitted that the said procedure was not properly followed by the appellant-Corporation. The deceased workman had applied for leave from 10.04.2002 to 26.05.2002 on account of the demise of his father and his own illness. The said application was not properly considered before treating the period as unauthorised absence. It is also submitted that the punishment of dismissal was highly disproportionate to the alleged misconduct and that there was no sufficient *prima facie* material to sustain the order of dismissal.



Therefore, the learned Single Judge rightly interfered with the approval granted by the competent authority.

5. We have considered the submissions made on either side and perused the materials available on record.

6. The principal issue that arises for consideration is whether the learned Single Judge was justified in interfering with the order granting approval under Section 33(2)(b) of the Industrial Disputes Act.

7. The scope of consideration of an approval petition under Section 33(2)(b) has been settled by the Hon'ble Supreme Court in **Lalla Ram's** case, wherein it has been held that, while considering an approval petition under Section 33(2)(b), the Labour Court is only required to examine whether a proper domestic enquiry was conducted; a *prima facie* case is made out; one month's wages were paid and the approval petition was filed simultaneously with the order of dismissal. The authority is required to satisfy itself as to the existence of a *prima facie* case, the validity of the domestic enquiry, the absence of victimisation or unfair labour practice and compliance with the statutory requirements.



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8. In the present case, the deceased workman had admittedly submitted a leave application for the period from 10.04.2002 to 26.05.2002, citing the demise of his father and his own ailment. The said circumstance was required to be considered while examining the allegation of unauthorised absence.

9. On a careful consideration of the materials, we find that the learned Single Judge has examined the matter in the light of the principles laid down in **Lalla Ram** and has recorded a finding that the requisite procedure was not properly followed while granting approval and the order of dismissal is highly disproportionate. Therefore, we do not find any perversity or illegality in the reasoning adopted by the learned Single Judge warranting interference.

10. However, having regard to the fact that the deceased workman had already passed away and that considerable time has elapsed from the date of dismissal, the consequential benefits have to be appropriately moulded. In the circumstances, the legal heirs of the deceased workman shall not be entitled to back wages for the period from 21.12.2003 till 23.08.2017. However, for the purpose of terminal benefits, family pension and other consequential benefits,



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the period shall be reckoned as qualifying/continuity of service, subject to the applicable service rules and after giving due adjustment for the period of unauthorised absence, if any, in accordance with law.

11. The appellant-Corporation is directed to calculate and settle the terminal benefits, family pension/family benefits and other consequential monetary benefits payable to the legal heirs of the deceased workman, within a period of six weeks from the date of receipt of a copy of this order. Accordingly, the writ appeal stands disposed of with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

12. List the matter on 30.09.2026 under the caption “for reporting compliance”.

[M.D.I.,J] [N.D.K.,J]

19.08.2026

Index: Yes/No
Internet: Yes/No
PKN

Note: Issue order copy today i.e., 19.08.2026.



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To

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Chennai - 600 006.

2. The Chairman,
Tamilnadu State Transport Corporation Ltd.,
Ezhilagam, Chepauk,
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