



W.P(MD)No.23670 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.06.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.23670 of 2022

R.Dasarathan

... Petitioner(s)

VS.

The General Manager,
Tamil Nadu State Transport Corporation (Kumbakonam) Limited,
Periyamilaguparai,
Trichy-1.

... Respondent(s)

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 from the Labour Court, Trichy, relating to the impugned award dated 04.04.2012 in I.D.No.50 / 2018 quash the same and consequently to direct the respondent to reinstate the petitioner in service with continuity of service, back wages and all other attendant benefits, award costs.

For Petitioner : Mr.S.Arunachalam



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WEB COPY For Respondent : Mr.S.C.Herold Singh
ORDER

This writ petition has been filed challenging the award dated 04.04.2022 passed by the Labour Court and consequently seeking a direction to the respondent Corporation to reinstate the petitioner in service with continuity of service, back wages and all other attendant benefits.

2. The learned counsel appearing for the petitioner submitted that the petitioner was appointed as a Reserve Conductor in the respondent Corporation at Malaikottai Branch on 10.08.2009. Thereafter, he was transferred to the Manapparai Branch on 12.08.2009 and subsequently to the Dheerannagar Branch on 02.05.2012. At the time of dismissal, the petitioner was paid wages at the rate of Rs.232/- per day.

3. The learned counsel further submitted that the respondent issued a charge memo dated 30.10.2012 alleging that the petitioner had remained unauthorisedly absent from 07.06.2012 to 21.09.2012. Thereafter, the petitioner was permitted to rejoin duty. However, without issuing any further charge memo,



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the respondent conducted an enquiry and passed an order of dismissal dated 19.01.2016 on the allegation that the petitioner had remained unauthorisedly absent from 20.12.2012 to 19.01.2016.

4. According to the learned counsel for the petitioner, the only charge memo issued to the petitioner related to the period from 07.06.2012 to 21.09.2012. No charge memo was ever issued with respect to the subsequent period of alleged unauthorised absence from 20.12.2012 to 19.01.2016. Therefore, the dismissal order, insofar as it is founded upon allegations for which no charge memo was issued and no opportunity of defence was afforded to the petitioner, is in clear violation of the principles of natural justice. The Labour Court failed to appreciate this fundamental defect and erroneously upheld the dismissal order. Hence, the impugned award is liable to be set aside.

5. The learned counsel for the petitioner further submitted that, without prejudice to the above contentions, the petitioner is willing to forego the claim for continuity of service, back wages and other attendant benefits, if this Court directs the respondent Corporation to appoint him afresh as a Reserve Conductor so as to enable him to earn his livelihood.



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WEB COPY 6. Per contra, the learned Standing Counsel appearing for the respondent Corporation submitted that the petitioner was a habitual absentee. Though he was appointed as a Reserve Conductor, he had not completed 240 days of service in any calendar year and had frequently remained absent without authorisation.

7. The learned Standing Counsel further submitted that a charge memo dated 30.10.2012 was issued for the petitioner's unauthorised absence from 07.06.2012 to 21.09.2012. On humanitarian grounds, he was once again permitted to join duty as a Reserve Conductor on 11.12.2012. However, after such reinstatement, the petitioner attended duty only on 13.12.2012, 14.12.2012, 18.12.2012 and 19.12.2012. Thereafter, he continuously remained absent from 20.12.2012 till 19.01.2016, amounting to nearly 1,318 days of unauthorised absence. Therefore, the respondent passed the order of dismissal, which has been rightly upheld by the Labour Court. Hence, the writ petition is liable to be dismissed.

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



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9. The facts are not in dispute. The petitioner entered service as a Reserve Conductor on 10.08.2009 and was paid daily wages of Rs.232/-. It is also not in dispute that the respondent issued a charge memo dated 30.10.2012 alleging unauthorised absence only for the period from 07.06.2012 to 21.09.2012.

10. A perusal of the dismissal order dated 19.01.2016 shows that the respondent has taken into account not only the period covered by the charge memo but also the petitioner's alleged unauthorised absence from 20.12.2012 to 19.01.2016, which is stated to be about 1,318 days. Admittedly, no charge memo was issued for the said period. No explanation was called for from the petitioner and no enquiry was conducted with respect to the subsequent spell of absence.

11. It is a settled principle of law that no order of punishment can be founded upon allegations for which no charge memo has been issued and no opportunity has been afforded to the delinquent employee to defend himself. Such action is violative of the principles of natural justice. Therefore, the dismissal order suffers from patent illegality and non-application of mind.



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12. Unfortunately, the Labour Court failed to examine this crucial aspect and mechanically upheld the order of dismissal. The finding of the Labour Court, therefore, suffers from perversity and cannot be sustained.

13. At the same time, this Court cannot lose sight of the fact that the petitioner had admittedly remained absent from duty for a considerably long period. The petitioner has also fairly submitted before this Court that he is willing to forego his claim for reinstatement with continuity of service, back wages and other attendant benefits, and is only seeking an opportunity to earn his livelihood by being appointed afresh as a Reserve Conductor.

14. Considering the peculiar facts and circumstances of the case, and balancing the equities between the parties, this Court is of the view that the ends of justice would be met by directing the respondent Corporation to appoint the petitioner afresh as a Reserve Conductor without extending the benefit of continuity of service, back wages or any other attendant benefits.



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WEB COPY 15. Accordingly, the impugned award dated 04.04.2022 is set aside. The respondent Corporation is directed to appoint the petitioner afresh as a Reserve Conductor, treating him as a fresh entrant, subject to his possessing a valid Conductor's Renewal Licence and satisfying the other eligibility requirements. Such appointment shall be made within a period of two weeks from the date of receipt of a copy of this order.

16. With the above direction, this writ petition is allowed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

30.06.2026

NCC : Yes / No

Index : Yes / No

Internet : Yes

TSG

To

The General Manager,

Tamil Nadu State Transport Corporation (Kumbakonam) Limited,

Periyamilaguparai,

Trichy-1.



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M.DHANDAPANI,J.

TSG

**ORDER MADE IN
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DATED : 30.06.2026