

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.02.2016

Coram

The Hon'ble Mr. Justice T.S. Sivagnanam

Writ Petition Nos. 31812 to 31823 of 2015,
M.P.Nos. 1 to 1 of 2015 (12 in nos.)
and
W.M.P.Nos. 3059 to 3061 of 2016

W.P.No. 31812 of 2015

The Management of
Metropolitan Transport Corporation
(Chennai) Ltd.,

rep. by its Senior Deputy Manager, (HRD)
Pallavan Illam, Anna Salai,
Chennai - 600 002.

...Petitioner in All WPS.

Vs.

Munusami	..R1 WP.NO.31812/2015
M.Suguna Kumar	..R1 WP.NO.31813/2015
R.Radhakrishnan	..R1 WP.NO.31814/2015
J.Natarajan	..R1 WP.NO.31815/2015
A.Rajendran	..R1 WP.NO.31816/2015
M.Ravi	..R1 WP.NO.31817/2015
P.Kaliya Perumal	..R1 WP.NO.31818/2015
T.Muruganantham	..R1 WP.NO.31819/2015
K.Sankar	..R1 WP.NO.31820/2015
C.Veeraraghavan	..R1 WP.NO.31821/2015
V.Ravikumar	..R1 WP.NO.31822/2015
R.Srinivasan	..R1 WP.NO.31823/2015

The Special Deputy Commissioner of Labour,
D.M.S. Office, Teynampet, Chennai - 600 006.

...R2 in All WPS.

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari, to call for records, pertaining to the order passed in A.P.No.466 of 2011, Dated 22.08.2014, A.P.Nos.519/12, Dated 5.8.14, 516/12, Dated 7.8.14, 513/12, Dated 12/1/15, 312/12, Dated 19.12.14 65/12, Dated 5.8.14, 138/13, Dated 12.1.15, 138/13, Dated 12.1.15, 235/12, Dt.18.7.14, 200/12, Dated 5.12.14, 194/12, Dated 10.7.14, 418/11, Dated 12.5.14, & 174/11, Dated 17.6.14 from the file of the second respondent and to quash the same.

For Petitioner in all W.Ps. : Mr.M.Chidambaram

For R-1 in W.P.Nos.31812 &
31813 of 2015 : Mr.K.V.Shanmuganathan

For R-1 in W.P.Nos.31814,
31815, 31817 & 31819/2015 : Mr.S.T.Varadharajulu

For R-1 in W.P.No.31816/2015 : No Appearance

For R-1 in W.P.No.31818/2015 : No Appearance

For R-1 in W.P.No.31820/2015 : No Appearance

For R-1 in W.P.No.31821/2015 : No Appearance

For R-1 in W.P.No.31822/2015 : Mr.S.Ravi

For R-1 in W.P.No.31823/2015 : No Appearance

For Respondent-2 in all W.Ps. : Mr..R.Rajeswaran
Special Govt. Pleader

COMMON O R D E R

As the legal issue involved in these Writ Petitions are identical, they were taken up together, and disposed of, by this common order, with the consent of parties.

2. The petitioner is the Management of the Metropolitan Transport Corporation (Chennai) Ltd. The petitioner-Management sought for approval from the second respondent/Special Deputy Commissioner of Labour, Chennai, with regard to the order of termination passed against the first respondents/workmen, by filing Approval Petitions, under Section 33 (2) (b) of Industrial Disputes Act, 1947, (hereinafter, referred to as 'the I.D. Act'). Since those Approval Petitions have been rejected by the second respondent, by the impugned orders, the present Writ Petitions have been filed.

3. Heard the learned counsels appearing for the respective parties and perused the materials available on records.

4. The issue involved in these Writ Petitions is no longer res integra, as this Court, in a batch of Writ Petitions, viz., in W.P.Nos.33497 to 33505 of 2015, filed by the very same Management, involving similar set of facts, had set aside the order passed by the Special Deputy Commissioner of Labour, Chennai, who is the second respondent herein. Totally, nine Writ Petitions were filed, and this Court, as per the issues

under challenge, segregated those Writ Petitions in two sets. In one of Writ Petitions, viz., W.P.Nos.33497 & 33498 of 2015, the issue which was taken up for consideration is:-

Issue No.I)

Whether the Management has complied with the provisions of Section 33 2 (b) of I.D. Act before imposing the punishment of termination of service on the workmen ?

5. In other set of Writ Petitions, viz., in W.P.No.33499 to 33505 of 2015, apart from issue No.I, mentioned supra, another issue was taken up for adjudication, which is mentioned infra:-

Issue No.II)

Whether the findings rendered by the Special Deputy Commissioner of Labour that the domestic enquiry conducted by the Management was not fair and proper, is correct or incorrect?

6. This Court, analysed the facts of the each case, and held Issue No.I) (which is common in all Writ Petitions) in favour of the Management, by holding that the Management has complied with the mandatory condition under Section 33 (2) of I.D.Act, and allowed W.P.Nos.33497 & 33498 of 2015. Insofar as the other set of Writ Petitions is concerned, viz., W.P.No.33499 to 33505 of 2015, concerning issue No.II), this Court was not inclined to interfere with the findings recorded by the Special Deputy Commissioner of Labour, as there was no perversity or illegality in those findings, and upheld issue No.II against the Management and held that the domestic enquiry conducted by the Management was not fair and proper, and partly allowed W.P.Nos.33499 to 33505 of 2015. However, this Court taking into consideration the plight of the workmen, took upon itself, another issue for consideration, which is mentioned infra:-

Issue No.III

" To what relief, the workmen would be entitled to?"

7. This Court, after thoroughly perusing the charge levelled against the each of the Workmen, opined that the punishment of termination imposed on the Workman is grossly disproportionate to the charge against them. Thus, this Court, after deciding Issue No.I in favour of the Management and Issue No.II) against it, decided last and final Issue No.III in favour of workmen. Ultimately, this Court, while wholly allowing W.P.Nos.33497 & 33498 of 2015, and partly allowing W.P.No.33499 to 33505 of 2015, and having decided Issue No.III

in favour of the workmen, set aside the punishment imposed on the Workmen and remanded the matter to the petitioner-Management for imposing any other minor punishment on the Workmen, and directed the petitioner-Management to complete the said exercise within a period of eight weeks from the date of receipt of a copy of that order. For better appreciation, the operative portion of the said order, dated 15.02.2016, is extracted hereunder:-

“(i) W.P.Nos.33497 and 33498 of 2015, are allowed. However, it is held that the punishment of termination from service is grossly disproportionate to the charge against the Workmen and therefore, such order of punishment imposed on the Workmen is set aside and the matter is remanded to the petitioner Management for imposing any other minor punishment on the Workmen.

(ii) W.P.Nos.33499 to 33505 of 2015 are partly allowed and the order passed by the second respondent with regard to the question relating to Section 33(2)(b) of the I.D.Act alone is set aside and the order holding that the domestic enquiry conducted against the Workmen was not fair and proper is upheld. Consequently, the punishment of termination from service is set aside and the matter is remanded to the petitioner Management to impose some other minor punishment on the respondent Workmen.

(iii) The above direction shall be complied with by the petitioner Management within a period of eight weeks from the date of receipt of a copy of this order.”

8. Thus, in the light of the order passed by this Court in W.P. Nos.33497 to 33505 of 2015, dated 05.07.2013, (referred supra), the present Writ Petitions can also be disposed of, on the same lines, as they are filed by the very same Management concerning its employees in respect of the identical charge, i.e., “unauthorized absence”, and the impugned orders are passed by the same Commissioner of Labour, Chennai, who framed the five issues, which were also identical in the said batch of Writ Petitions, and ultimately, rejected the Approval Petitions filed by the Management.

9. Accordingly, the writ petitions are partly allowed, the order of punishment imposed on the Workmen is set aside and the matter is remanded to the petitioner-Management for imposing any other minor punishment on the Workmen. The said exercise

shall be completed by the petitioner Management within a period of eight weeks from the date of receipt of a copy of this order.

10. In the result, the Writ Petitions are partly allowed with the above direction. No costs. Consequently, connected M.Ps. as also W.M.Ps. are closed.

sd

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

TO

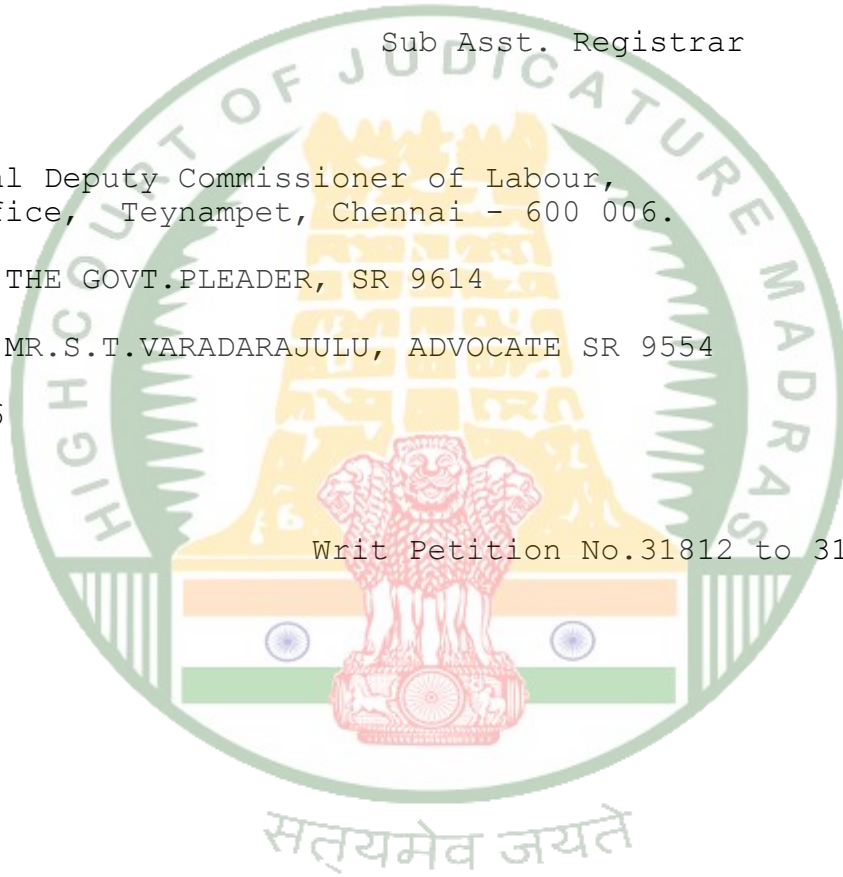
The Special Deputy Commissioner of Labour,
D.M.S. Office, Teynampet, Chennai - 600 006.

+ 1 CC TO THE GOVT.PLEADER, SR 9614

+ 1 CC TO MR.S.T.VARADARAJULU, ADVOCATE SR 9554

KR/21/3/16

Writ Petition No.31812 to 31823 of 2015



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