



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **21.03.2017**

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
AND
THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

W.A. [MD] .No.265 of 2017
and
C.M.P. [MD] .No.2718 of 2017

The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Dindigul Region,
Bye-pass Road, Collectors Post
Dindigul-624 004. : Appellant/Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
Office of the Commissioner of Labour,
Chennai-600 006.

2.T.Maharaja, : Respondents/Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 25.08.2014 made in W.P.(MD).No.14016 of 2014, on the file of this Court.

Prayer in WP(MD). 14016/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARI calling for the records of the 1st respondent in his proceedings in Approval Petition No.449/2011 dated 27.12.2012, and quash the same.

For Appellant : Mr.A.Jeyaram

For Respondent No.2 : Mr.M.Pounraj

JUDGMENT

[Judgment of the Court was made **T.S.SIVAGNANAM, J.**]

Heard the learned Standing Counsel for the appellants and the learned counsel appearing for the second respondent. By consent, the writ Appeal is taken up for final disposal at the stage of admission itself.



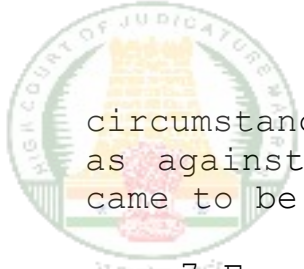
2. This Writ Appeal of the Tamil Nadu State Transport Corporation, Madurai Limited, Dindigul Region, is directed as against the order dated 25.08.2014 made in W.P.(MD).No.14016 of 2014. The Writ Petition was filed by the appellant herein, challenging the order passed by the Deputy Commissioner of Labour in Approval Petition No.449 of 2011, dated 27.12.2012.

3. The Second respondent herein was working as a conductor and charge proceedings was initiated against him on the ground that he had misappropriated a sum of Rs.12 and caused loss to the appellant corporation. The appellant Corporation filed approval petition seeking to grant approval for the dismissal of the second respondent and there was a delay in filing the application seeking approval. The first respondent, after considering the matter in detail, by order dated 27.12.2012, rejected the approval petition. The legal position is that if approval is refused to be granted, the workman is deemed to be in service as is the order of dismissal never exists. Thus, the remedy open to the appellant was to challenge the order passed in the approval petition. The learned single Judge, while dismissing the Writ Petition filed by the appellant herein, noted that there was a gross, inordinate and unexplained delay in challenging the order before the Court by way of Writ Petition. Accepting the stand taken by the appellant management that a copy of the order was served on the Department only on 30.05.2013, the learned single Judge noted that even thereafter, more than one year had lapsed and the appellant corporation did not question the order before the Court.

4. Further, the learned single Judge noted that there was a delay in filing approval petition also and this defect is incurable and therefore, the learned single Judge has rightly dismissed the Writ Petition. The learned counsel for the appellant reiterated the submissions made before the Writ Court and submitted that the decision to challenge the order, refusing to grant approval of the order of dismissal, had to be taken by the Board of management of the appellant Corporation, which meets only once in three months.

5. In our considered view, this can hardly be a reason for belatedly challenging the order. It is for the appellant to organise its affairs and law will not wait for the Board of management of the appellant to take a decision to challenge and then, to approve its belated action.

6. The learned counsel for the workman has drawn our attention to the decision of the Hon'ble Division Bench of this Court in the case of **Tamil Nadu State Transport Corporation [Villupuram] Ltd., rep. by its Managing Director, Vs. Joint Commissioner of Labour**, reported in **2016 III LLJ 743 [Mad]**, wherein in an identical



circumstance, the Writ Appeal filed by the Transport Corporation as against the similar order passed by the learned Single Judge came to be dismissed.

7. For the above reasons, the appellant has not made out any case to interfere with the order passed by the learned Single Judge. Hence, the Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Co)

/True copy/

Sub Assistant Registrar

To

The Special Deputy Commissioner of Labour,
O/o, Commissioner of Labour,
Chennai-600 006.

+1 cc to Mr.M.Povnraj , Advocate in SR.No. 16130

NB

AE/SV MMS/SAR3/05.04.2017/3P/3C

JUDGMENT MADE IN
W.A. [MD] .No.265 of 2017
and
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21.03.2017