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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 07.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.A.[MD].No.915 of 2017

and

C.M.P.[MD]No.6138 of 2017

The Management,
Tamil Nadu State Transport Corporation,
(Madurai) Limited, Dindigul Region,
Bye pass Road, Collectorate P.O,
Dindigul - 624 004. ... Appellant/Petitioner

Vs.

1. The Joint Commissioner of Labour (Conciliation),
Chennai - 6.

2.T.Ganesan ... Respondents/Respondents

PRAYER : Writ Appeal is filed under Clause 15 of the Letters Patent, to set aside the order passed in W.P(MD).No.6224 of 2007, dated 15.09.2014 on the file of this Court.

Prayer in WP(MD). 6224/ 2007 :

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 on the files of the 1st respondent pertaining to its proceedings in approval petition No. 32 of 2005 dated 03/01/2007 and quash the same.

For Appellant : Mr.A.Jeyaraman, Standing Counsel

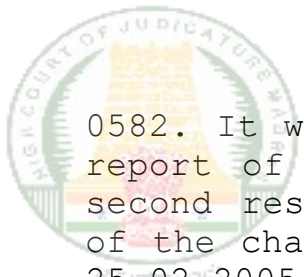
For Respondents : No Appearance

JUDGMENT

[Judgment of the Court was delivered by **G.R.SWAMINATHAN, J.**]

The Management, Tamil Nadu State Transport Corporation, Madurai Ltd., is on appeal, questioning the order dated 15.09.2014, dismissing WP(MD)No.6224 of 2007.

2.The second respondent herein was working as Conductor in the appellant Corporation. On 07.03.2004, the second respondent herein was on duty in the bus bearing registration no. TN-57-N-



0582. It was inspected by the checking inspector and based on the report of the checking inspector, charge memo was issued to the second respondent herein. The second respondent was found guilty of the charges and he was dismissed from service with effect from 25.02.2005.

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3.The Management applied for approval to the first respondent herein under Section 33(2)(b) of the Industrial Disputes Act, 1947. The first respondent by order dated 03.01.2007, declined to grant approval. The said order was challenged in WP(MD)No.6224 of 2007 by the appellant herein. The learned single Judge declined to exercise his jurisdiction under Article 226 of the Constitution of India and dismissed the writ petition.

4.Aggrieved by the dismissal of the writ petition, the Management is on appeal before this Court.

5.Heard the learned counsel appearing for the appellant.

6.The learned counsel for the appellant contended that the learned single Judge failed to appreciate the scope of enquiry available under Section 33(2)(b) of the Industrial Disputes Act, 1947.

7.Though it is true that the scope of enquiry under the said provision is limited, it cannot be disputed that the authority while considering the application under Section 33(2)(b) of the Industrial Disputes Act, 1947 can certainly refuse approval, if according to him, the finding of guilt is perverse.

8.In the present case, after a careful discussion of the materials on record, the first respondent authority specifically found that the findings of the enquiry officer were perverse. This finding of perversity is duly substantiated by the reasoning found in the order dated 03.01.2007, in Approval Petition No.32 of 2005 on the file of the first respondent.

9.The learned single Judge had also referred to the reasoning of the first respondent and ultimately sustained the same. We are in agreement with the view taken by the learned single Judge. We find no merit in this Writ Appeal. Accordingly, this Writ Appeal is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Co)

/True Copy/



To

The Joint Commissioner of Labour (Conciliation),
Chennai - 6.

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AE/MR KKR/SAR3/21.07.2017/3P/2C

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and
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