

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 09.08.2018
CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.3349 of 2010 and
M.P.Nos.1,2,3 and 5 of 2010

The Management,
Tamil Nadu State Transport Corporation
(Coimbatore Division I) Limited,
No.37, Mettupalayam Road,
Coimbatore 641 043,
Rep by its Managing Director. ... Petitioner/Petitioner

Vs

1.The Joint Commissioner of Labour (Conciliation),
D.M.S.Compound, Teynampet,
Chennai 600 018.

2.Thiru.S.Madasamy ... Respondents/Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records made in Approval Petition No.253 of 2004 dated 09.05.2009 on the file of the Joint Commissioner of Labour (Conciliation), Chennai, the first respondent herein and quash the same.

For Petitioner : Mr.T.Chandrasekaran

For Respondents: Mr.B.Anand,
Government Advocate for R1

: Mr.R.Krishnaswamy for R2

O R D E R

The writ petition has been filed to issue a Writ of Certiorari to call for the records made in Approval Petition No.253 of 2004 dated 09.05.2009 on the file of the Joint Commissioner of Labour (Conciliation), Chennai, the first respondent herein and quash the same.

2. The case of the petitioner is as follows:-

(i) The second respondent joined the petitioner Corporation as Driver on 15.06.1996. At the time of joining duty, he

submitted a School Certificate to the effect that he has passed 8th Std, since the minimum educational qualification for the post of Driver was 8th Std passed. During the year 2002, the petitioner Corporation framed a charge against the second respondent that he produced a bogus School Certificate while joining the duty in the year 1996.

(ii) An enquiry was conducted into the charges and after affording an opportunity of personal hearing to the second respondent, the petitioner Corporation proved the allegation levelled against him and issued an order of dismissal on 20.09.2004, under Section 33(2)(b) of the Industrial Disputes Act, 1947, to the second respondent herein.

(iii) In the said circumstances, such dismissal was not permitted and granting of approval was denied by the Joint Commissioner of Labour (Conciliation), the first respondent herein, vide order 09.05.2009 in Approval Petition No.253 of 2004, on the ground that the findings of the Enquiry Officer were not supported by any evidence and was based merely on conjecture. Challenging the same, the petitioner Corporation filed the present writ petition.

3. The learned counsel for the petitioner submitted that proper enquiry was conducted into the charges and materials were perused and that was the basis for arriving such conclusion of dismissal of the second respondent.

4. The learned counsel appearing for the second respondent brought to the notice of this Court that no proper examination was made on the allegation levelled against the second respondent and it was concluded only on surmise and not supported by any evidence. Such finding is available in the impugned order, which reads as follows:-

"I am therefore of the view that the findings recorded by the Enquiry Officer are not supported by the evidence but was based merely on conjecture. The findings are perverse, since it is not justified by any legal evidence. Therefore, I hold that a prima facie case for dismissal based on legal evidence adduced in the domestic enquiry had not been made out."

5. Considering the facts and circumstances of the case and having regard to the submissions made on behalf of either side, this Court finds that the order passed in the Approval Petition No.253 of 2004 dated 09.05.2009 by the first respondent, does not call for any interference, since the petitioner has not placed any evidence before this Court to interfere with the orders of the first respondent.

6. Hence, the writ petition stands dismissed, affirming the order passed by the Joint Commissioner of Labour (Conciliation), the first respondent herein. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

gsk

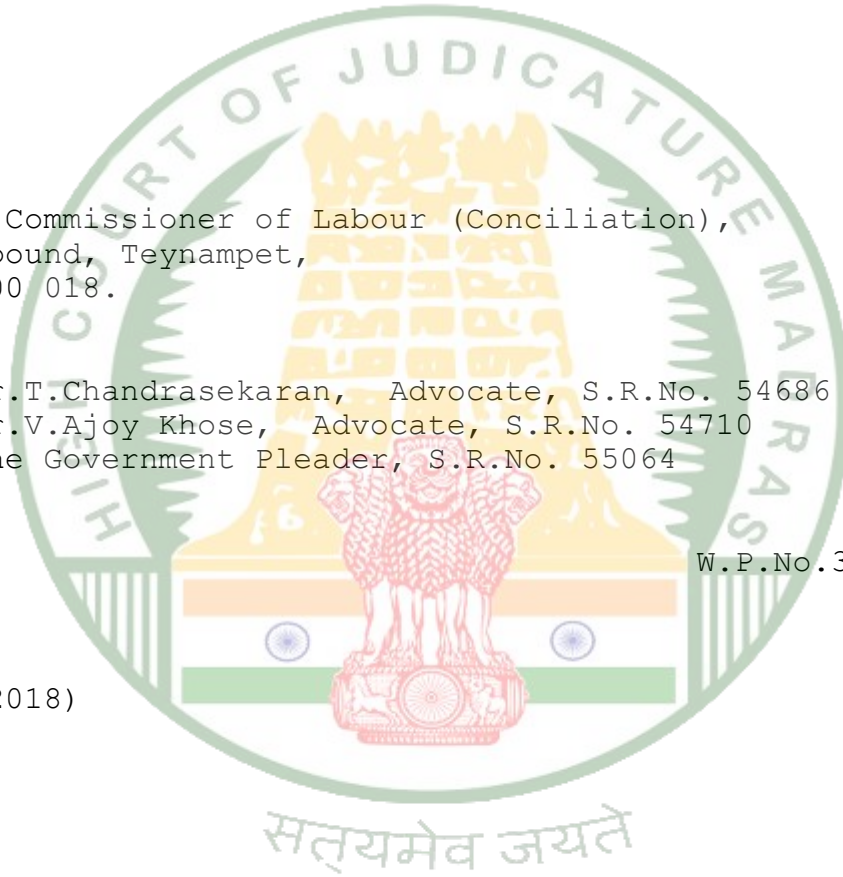
To

The Joint Commissioner of Labour (Conciliation),
D.M.S.Compound, Teynampet,
Chennai 600 018.

+1cc to Mr.T.Chandrasekaran, Advocate, S.R.No. 54686
+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No. 54710
+1cc to the Government Pleader, S.R.No. 55064

W.P.No.3349 of 2010

SJ (CO)
GN (18/09/2018)



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