



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No19291 of 2014

and

M.P. (MD) .No.1 of 2014

The General Manager,
Tamil Nadu State Transport Corporation,
(Madurai) Limited,
Bye Pass Road, District Collector Office Post,
Dindigul-624 004.

... Petitioner

Vs.

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

2.P.Jeyasingh Herald
Driver 55592,
Badlagund Branch,
S/o.Benny,
Packiapuram, Naidupuram Post,
Kodaikonal-624 101.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the first respondent in his proceedings in Approval Petition No.61/2011 dated 27.12.2012, quash the same.

For Petitioner : Mr.A.Jeyaram
For Respondents : Mr.J.Gunaseelan Muthiah for R1
Additional Government Pleader
No Appearance for R2

ORDER

Heard the learned counsel on either side.

2.The second respondent herein was employed as a driver in the Tamil Nadu State Transport Corporation. On 23.02.2010, while the second respondent drove the vehicle and got involved in an accident,

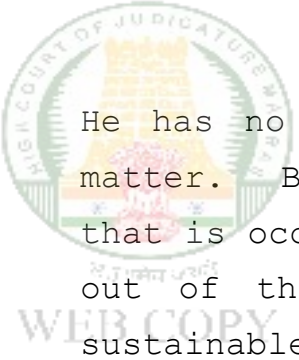


it was a fatal one. Therefore, disciplinary action was initiated against him. He was issued with a charge memo on 10.03.2010. The second respondent submitted his explanation on 13.04.2010. Thereafter, an enquiry was conducted on 07.08.2010. The enquiry report held that the charges against the second respondent were proved. A copy of the said enquiry report was furnished to the second respondent and he was asked to give his further explanation. Thereafter, the second respondent was dismissed from service vide order, dated 14.02.2011. Thereafter, the petitioner filed an approval petition before the first respondent under Section 33(2) (b) of the Industrial Disputes Act, 1947. The above Approval Petition was taken on the file of the first respondent and the first respondent has passed the impugned order dated 27.12.2012 declining to grant approval. The said order is under challenge in this writ petition.

3.The cause of action relates back to the year 2010. The impugned order declining to grant an approval was passed on 27.12.2012. The writ petition came to be filed only on 26.11.2014, that is, two years after the order of rejection was passed. The writ petition has not been admitted till date. After it was taken up for admission in December 2014, it has seen the light of the date only in January 2018. The long lapse of time has to be definitely taken into account. It is seen that the first respondent declined to grant approval for three reasons.

4.Firstly, the second respondent was not paid one month salary. Secondly, the principles of natural justice were not complied with, while conducting domestic enquiry. Thirdly, there was nothing on record to show that even a prima facie case was made out. In view of these three reasons, the first respondent declined to grant approval.

5.The learned counsel appearing for the petitioner would point out that the first respondent acted in an excess of his authority.



He has no jurisdiction to go into the prima facie aspect of the matter. Be that as it may, in view of the considerable time gap that is occasioned in this case and in view of the fact that the two out of the three reasons assigned by the first respondent are sustainable in law, this Court declines to interfere.

6.Hence, the writ petition stands 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.

+1cc to M/S.A.JEYARAM, Advocate SR.No.41093.
+1cc to Special Government Pleader in SR.No.41451.

W.P. (MD) No.19291 of 2014
08.01.2018

tsg
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