

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2020

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.28808 OF 2019

AND

W.M.P.NO.28551 OF 2019

The Management
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
Cuddalore Region, Cuddalore - 607 002.

... Petitioner

-vs-

1. S.Premkumar

2. The Special Deputy Commissioner of Labour,
D.M.S. Compound,
Chennai - 600 006.

... Respondents

Prayer:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records of the Second Respondent made in A.P. No. 363/2013 dated 16.07.2015 and quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.C.S.K.Sathish
Standing Counsel

For Respondents: Mr.Sairamkumar Dhandapani
For Dr.P.Vasudevan (For R1)

Mr.D.Sathyaraj (For R2)
Special Government Pleader.

O R D E R
(through video conference)

Heard Mr.C.S.K.Sathish, Learned Standing Counsel for the Petitioner, Mr.Sairamkumar Dhandapani, Learned Counsel for the First Respondent and Mr.D.Sathyaraj, Learned Special Government Pleader for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent, who had been employed as driver by the Petitioner, was terminated from service by order dated 16.12.2013 for unauthorized absence. The application for approval under Section 33(2)(b) of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'Act' for short), before the Second Respondent was rejected by order dated 16.07.2015 recording that the matter has become infructuous on account of the fact that the First Respondent has already submitted his resignation letter dated 24.08.2013 prior to the order of termination. The Writ Petition challenges the said order passed by the Second Respondent.

3. During the course of hearing, Learned Counsel for the First Respondent has produced proof for the resignation of the First Respondent along with the postal acknowledgment card. On receipt of the same, the Learned Counsel for the Petitioner has produced a copy of the e-mail dated 30.09.2020 received by him from the Petitioner, which reads as follows:-

" Thiru S.Premkumar Ex-Driver, Ex-DR3494 appointed as daily paid Conductor on 05.02.1998 and regularized in service on 01.11.1998. He was removed from service on 16.12.2013 for the proven Unauthorized Absent after completing all the formalities including domestic enquiry in accordance with principle of natural justice.

As the conciliatory proceedings with regard to regularization of the reserved crew and other issued were pending before the Commissioner of Labour, Chennai seeking approval of the dismissal of the workman U/S 33 (2)(B) of the ID Act, 1947 as it is mandatory.

The Special Deputy Commissioner of Labour, Chennai in its order dated 16.07.2015 declined to accord approval for the dismissal of the workman only on the ground that "The Approval Petition become infructuous since the employee has resigned from service by resignation letter dated 24.08.2013.

The Corporation filed Writ Petition in WP. No.28808/2019 before the Hon'ble High Court at Madras the case was listed today (22.09.2020) and the Respondent submitted documents Resignation letter dated 24.08.2013 with Acknowledgment photocopy and also sent to the Corporation on the day of resignation, but the resignation letter dated 24.08.2013 not found in the related records. Now only we got evidence copy from the Respondent. Hence we decided to accept the Respondent

Resignation Letter dated 24.08.2013 submitted by Thiru
S.Premkumar Ex-Driver Staff No.Dr.3494."

In view of the subsequent events, which have been placed on
record, no further orders are required in this Writ Petition.

4. Accordingly, the Writ Petition is disposed.
Consequently, the connected miscellaneous petition is closed. No
costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Management
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.
Cuddalore Region, Cuddalore - 607 002.
2. The Special Deputy Commissioner of Labour
D.M.S. Compound, Chennai - 600 006.

W.P.No.28808 of 2019

LN(CO)
CS/16/10/2020

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