



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.12001 of 2015

AND

M.P.No.1 of 2015

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Bharathipuram,
Salem Main Road,
Dharmapuri - 636 705.
rep. by its General Manager

...Petitioner

VS.

1.The Special Deputy Commissioner of Labour,
DMS Compound,
Anna Salai, Chennai.

2.C.Vinayagamoorthy

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, to call for the records in proceedings pursuant to the order passed in Approval Petition A.P.No.474 of 2011, dated 15.05.2013 on the file of the 1st Respondent, and quash the same against the provisions of the Industrial Disputes Act, 1947.

For Petitioner : Mr.D.Raghu

For 2nd Respondent : Mr.S.T.Varadarajulu

O R D E R

Petitioner/Transport Corporation has come up with this Writ Petition challenging the order dated 15.05.2013 passed by the 1st Respondent in Approval Petition No.474 of 2011.



2. The Petitioner/Transport Corporation has filed Approval Petition No.474 of 2011 seeking approval of their action in dismissing the 2nd Respondent/employee from service. The Labour Court rejected the Approval Petition on the ground that, the punishment of dismissal from service for 'unauthorized absence' is too harsh.

3. Learned counsel for the Petitioner/Transport Corporation pointed out that, the 2nd Respondent was dismissed from service on two previous occasions for unauthorized absence and that, this is the third occasion. He contended that, the decision taken by the 1st Respondent/Authority is beyond his scope and it is not in consonance with the guidelines framed by the Apex Court in the decision rendered in the case of Lalla Ram vs. Management of D.C.M. Chemical Works Ltd. reported in AIR 1978 SC 1004.

4. Learned counsel appearing for the 2nd Respondent/employee contended that, the punishment imposed on the employee is disproportionate to the charges and hence, the Authority has rightly rejected the Approval Petition filed by the Petitioner/Transport Corporation.

5. Heard the learned counsel on either side and perused the material documents available on record.

6. Undoubtedly, unauthorized absenteeism is indiscipline and termination from service may call for interference in an Industrial Dispute under Section 11-A of the Industrial Disputes Act, 1947, but not in an Approval Petition, as the scope in an Approval Petition is limited. In the case on hand, the 2nd Respondent/employee has been habitually absenting himself from duty. That being the case, the Authority ought not to have exercised his powers to interfere with the order passed by the Petitioner/Transport Corporation.

7. This Court finds much force in the contention of the learned counsel for the Petitioner/Transport Corporation. Accordingly, the order dated 15.05.2013 passed by the Authority in Approval Petition No.474 of 2011 is set aside.



The Writ Petition is allowed. No costs. Consequently, connected M.P.No.1 of 2015 is closed.

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Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

(aeb)

To:

The Special Deputy Commissioner of Labour,
DMS Compound,
Anna Salai, Chennai.

+1cc to M/s.D.Raghu, Advocate SR.No.37478

+1cc to M/s.S.T.Varadarajulu, Advocate SR.No.37152

W.P.No.12001 of 2015

KSM(CO)
RVM(27/09/2021)