



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.07.2021

:CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
W.P.No.43771 of 2006

WEB COPY

The Management of Tamil Nadu
State Transport Corporation
Kumbakonam Dn.(II) Ltd.,
Rep. By its General Manager
Periamilaguparai,
Tiruchirappalli.

....Petitioner

-vs-

1. The Joint Commissioner of Labour,
(Conciliation)
DMS Compound,
Chennai- 600 006.

2. Thiru.A.Ramakrishnan

.....Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for records relating to the Order of the First Respondent in Approval Petition No.40/2004 dated 12.12.2005, and quash the same.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.K.Shankar (R2)
(No appearance)

O R D E R

This Writ Petition has been filed challenging the order of the First Respondent in Approval Petition No.40/2004 dated 12.12.2005, by which the First Respondent rejected to accord approval for the dismissal of the workman, on the ground that the findings of the Enquiry Officer that the charges framed against the Opposite party are proved is perverse.

2. The case of the Petitioner-Corporation in brief, is as follows:

(i) The Petitioner, which is a State owned Transport Undertaking employed the Second Respondent as a Driver and he remained absent from 20.08.2003 to 09.09.2003 without prior permission from the concerned authorities, for which a Charge



WEB

Memo was issued to the Second Respondent on 25.09.2003 and the Second Respondent also submitted his explanation. Since the explanation submitted by the Second Respondent was not satisfactory, domestic enquiry was ordered against him. After conducting due enquiry, the enquiry officer submitted his report on 12.11.2003, finding that the charges framed against the Second Respondent were proved.

(ii) Thereafter, an explanation was called for from the Second Respondent based on the enquiry report and after considering the reply given by the Second Respondent, the Management, having found that the reply given by the Second Respondent was not satisfactory, issued second show cause notice to the Second Respondent on 18.12.2003, for which the Second Respondent submitted his explanation. Since, the same was also not satisfactory, an order of dismissal was passed against the Second Respondent on 27.01.2004. Since the dispute between the Management and the employees of the Corporation is pending before the First Respondent, the Petitioner filed Approval Petition before the First Respondent and the same was rejected vide order dated 12.12.2005. Being aggrieved by the same, the present writ petition is filed.

2. The learned counsel appearing for the Petitioner/Corporation submitted that the finding of the First Respondent that a staff of the Petitioner, who dealt with leave application sent by the Second Respondent was not examined before the enquiry officer is erroneous for the reason that the Second Respondent sent the leave letter through ordinary post and therefore, it is for him to prove that the leave letter was sent to the Petitioner-Corporation.

3. Heard the learned counsel for the petitioner. None appeared on behalf of the Second Respondent.

4. A perusal of the order passed by the First Respondent would go to show that the witness, who had deposed that the Second Respondent had absented himself without prior permission or leave had admitted in his cross examination that he is not aware as to whether the Second Respondent had sent a leave letter to the Branch or not. Further the Attendance Register of the relevant period had not been marked in the enquiry. Therefore, the First Respondent came to the conclusion that the finding of the enquiry officer that the charges against the Second Respondent are proved, is held to be perverse.

5. The First Respondent, being a fact finding Authority had rightly held that there is no legal evidence adduced before it and came to the aforesaid conclusion, which does not warrant interference.



WEB COPY

6. In such view of the matter, this Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

arr
To

The Joint Commissioner of Labour,
(Conciliation)
DMS Compound,
Chennai- 600 006.

+1 cc to Mr.D.Venkatachalam, Advocate Sr.NO. 37166
W.P.No.43771 of 2006

RR(CO)
A.SK(26.10.2021)