



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18585 of 2015
and
M.P.No.1 of 2015

The Management,
Tamilnadu State Transport Corporation
(Kumbakonam) Ltd.,
Trichy Region,
Rep. by Managing Director,
Trichy.

... Petitioner

vs.

1. K.Gopalan

2. The Special Deputy Commissioner of Labour (Conciliation),
D.M.S. Compound,
Chennai.

... Respondents

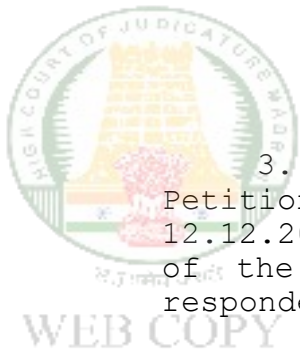
Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, to call for the records pertaining to the order passed by the 2nd respondent in A.P.No.592 of 2011 dated 12.12.2013 and to quash the same.

For Petitioner : Mr.D.Venkatachalam
For 1st Respondent : Mr.V.Ajaykhose

O R D E R

Petitioner - Transport Corporation has come up with this Writ Petition challenging the order dated 12.12.2013 passed by the 2nd Respondent in Approval Petition No.592 of 2011.

2. It is represented by the learned counsel for the Petitioner-Transport Corporation that, the 1st Respondent/employee was working as a Driver in the Petitioner-Transport Corporation. While the 1st respondent was working in the Contentment Depot, a charge memo dated 25.05.2007 was issued to him for absence from duty from 24.02.2007 to 16.05.2007 and after conducting due enquiry, he was dismissed from service on 29.08.2011.



3. It is seen that, the Labour Court rejected the Approval Petition filed by the Petitioner-Transport Corporation on 12.12.2013 on the ground that, there was no bonafide on the side of the petitioner with regard to the dismissal of the 1st respondent and found that it was an harsh punishment.

4. Learned counsel for the Petitioner-Transport Corporation contended that, the decision taken by the 2nd 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.

5. Today, when the matter is taken up for hearing, learned counsel appearing for the 1st Respondent/employee submitted that, the 1st Respondent accepted the proposal given by the Government vide Letter No.5370/C2/2021, dated 24.07.2021. For better appreciation, relevant clauses are extracted hereunder:

2. There were 283 cases, except TNSTC (MDU) placed before the Board for discussion. After detailed deliberations, the following decisions were taken:

(i) In respect of Ex-employees having required qualifying service for pension under 1998 Scheme to go on compulsory retirement on the date of dismissal and to allow eligible retirement benefits as per Rules in force.

(ii) In respect of Ex-employees who do not have qualifying service for pension under 1998 scheme at the time dismissal and they were in the category of Regular, Reserve and Daily Wage, such cases shall continue to be contested.

(iii) In respect of Ex-employees who expired during litigation, to proceed to settle the eligible death cum retirement benefits to the legal heirs of the deceased workman (up to the date of death or date of retirement whichever is earlier) by treating the non-employment period as "No Work No Pay" and also the legal heirs shall not claim for appointment under compassionate grounds.



6. The learned counsel for the petitioner-Transport Corporation submitted that the 1st respondent/employee's case will be considered in any one of the clauses mentioned supra depending upon the present situation. Learned counsel appearing for the 1st respondent/employee submitted that the employee has agreed to the same.

7. Taking note of the submissions of the learned counsel on either side and as the 1st Respondent/employee has agreed to accept the proposal of the Government vide any one of the above clauses, the petitioner-Transport Corporation is directed to extend the terminal benefits as per the Rules in force to the 1st respondent/employee within a period of four months from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rsi

To:

The Special Deputy Commissioner of Labour (Conciliation),
D.M.S. Compound,
Chennai.

+1CC to Mr.D.Venkatachalam, Advocate, Sr.No.37103
+1CC to Mr.V.Ajoy Khose, Advocate, Sr.No.37263

W.P.No.18585 of 2015
and
M.P.No.1 of 2015

PL (CO)
K.RK. (20.09.2021)