



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.3883 of 2020

The Management,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
represented by its General Manager,
No.27, Railway Station New Road,
Kumbakonam - 612 001.

... Petitioner

vs.

1. V.Palaniappan

2. The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai,
Chennai 600 006.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, to call for the records relating to the order dated 03.10.2018 passed by the 2nd Respondent in Approval Petition No.70 of 2013 and quash the same, consequently direct the 2nd Respondent herein to approve the order of the Petitioner, dated 28.01.2013, dismissing the 1st Respondent herein from service.

For Petitioner : Mr.D.Venkatachalam

For 1st Respondent : No appearance

O R D E R

Petitioner/Transport Corporation has come up with this Writ Petition challenging the order dated 03.10.2018 passed by the 2nd Respondent/Authority in Approval Petition No.70 of 2013 and for a consequential direction to the 2nd Respondent/Authority to approve their order dated 28.01.2013 dismissing the 1st Respondent herein from service.

2. Heard the learned counsel for the Petitioner and perused the material documents available on record. Though, the name of the 1st Respondent/employee is printed in the cause list, none appeared on his behalf.



3. Admittedly, enquiry proceedings have been filed, but, eye-witnesses have not been examined to establish the accident. It is not mandatory that, eye-witness should be examined. Any person who has got knowledge about the accident is entitled to tender evidence and the finding of the Authority that, the domestic enquiry has been conducted against the principles of natural justice and that, charges have not been established based on proper evidence, cannot be appreciated. Hence, the order dated 03.10.2018 passed by the 2nd Respondent/Authority in Approval Petition No.70 of 2013, is set aside.

4. It is open to the 1st Respondent/employee to raise an industrial dispute under Section 2(A) of the Industrial Disputes Act, 1947, if he is otherwise aggrieved by the dismissal order and in such case, the period of limitation has to be excluded in the light of the order dated 30.07.2021 passed by this Court in W.P.No.6850 of 2017, wherein, it is held that, once the Authority confirms the order passed by the Management, the order of dismissal of the employee will get merged with the order of the Authority in the Approval Petition, and the period of limitation begins from the date of grant of approval and not prior to that date, even though the dismissal order is held to be valid.

The Writ Petition is allowed to the extent indicated above. No costs. Consequently, connected W.M.P.Nos.4605 and 4607 of 2020 are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai, Chennai 600 006.

+1CC to Mr.D.Venkatachalam, Advocate, Sr.No.37112

W.P.No.3883 of 2020

BR (CO)
K.RK. (17.09.2021)