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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.17615 of 2016

The Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Ltd.,
represented by its Managing Director,
Railway Station New Road,
Kumbakonam - 612 001.

... Petitioner

vs.

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

2. P.Mohan

... 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 pertaining to the order dated 10.03.2014 passed by the 1st Respondent in Approval Petition No.211 of 2011 and quash the same, consequently direct the 1st Respondent to approve the order of the Petitioner dated 06.07.2011, dismissing the 2nd Respondent from service.

For Petitioner : Mr.D.Venkatachalam

For 2nd Respondent : Mr.D.Bharathy

O R D E R

Petitioner - Transport Corporation has come up with this Writ Petition challenging the order dated 10.03.2014 passed by the 1st Respondent in Approval Petition No.211 of 2011.

2. The Petitioner/Transport Corporation has filed Approval Petition No.211 of 2011 seeking approval of their action in dismissing the 2nd Respondent/employee from service, as he absented himself from duty frequently, without prior permission. The Labour Court rejected the Approval Petition on the ground that, the Management defaulted in payment of one full month wages to the employee.



3. Learned counsel for the Petitioner-Transport Corporation pointed out that, the Management was paying a sum of Rs.7,099/- as salary to the 2nd Respondent/employee and paid the said sum to him at the time of his dismissal, to comply with the provisions of Section 33(2)(b) of the Industrial Disputes Act, 1947. According to him, if it is the contention of the 2nd Respondent/employee that, the Petitioner/Transport Corporation paid lesser amount to him, he has to prove by adducing documentary evidence as to what is the actual salary he received. He went on to contend 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. Heard the learned counsel on either side and perused the material documents available on record.

5. It is stated by the Petitioner/Transport Corporation that, the dismissal order dated 06.07.2011 was sent to the 2nd Respondent along with a cheque bearing No.845760, dated 06.07.2011 for a sum of Rs.7,099/- towards payment of one month salary. Even though the 2nd Respondent/employee has stated that, there is shortfall in payment of last drawn wages, he has not stated as to how there was a shortfall. In such circumstances, the Authority ought not to have interfered with the dismissal order passed by the Petitioner/Transport Corporation.

6. Hence, this Court finds that, the order of the Authority in rejecting the Approval Petition on the ground of non-furnishing of break-up details with regard to the last drawn wages of the 2nd Respondent/employee, is not justifiable. Accordingly, the order dated 10.03.2014 passed by the 1st Respondent/Authority in Approval Petition No.211 of 2011, is interfered with.

In fine, the Writ Petition is allowed. No costs. Consequently, connected W.M.P.No.15237 of 2016 is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

(aeb)



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

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+1CC to Mr.D.Venkatachalam, Advocate, Sr.No.37121

W.P.No.17615 of 2016

PMK (CO)
K.RK. (20.09.2021)