



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2021

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.14191 of 2021
and
W.M.P.No.15067 of 2021

The Management
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited, Pudukottai Region
51/1, Pillai Thanner Panthal
Thirumayam Road, Pudukottai 622 001

...Petitioner

Vs.

1.M.Sakravarthi Vinayaka Saravanan
S/o.Muniyandi

2.The Special Joint Commissioner of Labour
DMS Campus, Anna Salai, Chennai

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified Mandamus, call for the records pertaining to the order dated 05.03.2021 passed by the 2nd respondent in Approval Petition No.107 of 2019 and quash the same, consequently direct the 2nd respondent to approve the order of the petitioner dated 29.06.2019 dismissing the 1st respondent from service.

For Petitioner : Mr.D.Venkatachalam

For Respondents : Mr.S.Santhosh Kumar for R1
Mr.L.S.M.Hasan Fizal, G.A for R2

O R D E R

This writ petition has been filed seeking to call for the records pertaining to the order dated 05.03.2021 passed by the 2nd respondent in Approval Petition No.107 of 2019 and quash the same and consequently direct the 2nd respondent to approve the order of the petitioner dated 29.06.2019 dismissing the 1st respondent from service.



2.The Approval Authority has rejected the plea raised in the Approval Petition on the ground that, the enquiry has not been conducted properly and that, there is victimization of the employee, in view of the decision of the Apex Court in the case of Bharat Iron Works Vs. Bhagubhai Balubhai Paetel reported in (1976) 1 SCC 518.

3.According to the learned counsel for the Petitioner - Transport Corporation, the employer ought to have been given an opportunity to let in evidence to prove the charges against the employee and that, the Authority has erred in denying opportunity to the Petitioner, when they have taken a specific plea in paragraph 5 of the Approval Petition.

4.It is seen that, the dismissal order was passed on 29.06.2019 and it reached the office of the Authority on 05.07.2019 and that there is a delay of six days in reaching the Authority. Though, it is stated that, the dismissal order along with Approval Petition has been sent to the Authority on 29.06.2019 by post, there is no proof of despatch, as 29.06.2019 was a Saturday. If there is any postal delay, certainly the issue has got to be answered in favour of the employer, as there is no proof of despatch either on 29.06.2019 (Saturday) or on 01.07.2019 (Monday). In view of the above, this Court holds that the rejection of the Approval Petition is perfectly valid and it does not require any interference.

5.However, in view of the decision rendered by the Apex Court in the case of Rajeshwar Mahto Vs. AlokKumar Gupta reported in (2018) 4 SCC 341, the 1st respondent / employee is entitled to wages from the date of the order of the Authority in the Approval Petition till the order of this Court.

6.This Writ Petition stands dismissed with the above direction. Consequently, the connected miscellaneous petition is also dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

The Special Joint Commissioner of Labour
DMS Campus,
Anna Salai, Chennai

WEB COPY

+1 CC to Mr.D.Venkatachalam, Advocate, Sr.No. 37093.

+1 CC to Mr.S.Santhosh Kumar, Advocate, Sr.No. 37439.

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PA (CO)
LS (20/10/2021)