

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.22534 of 2017
and WMP.No.23662 of 2017

The Management,
Tamilnadu State Transport Corporation
(Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangalore Highway,
Kancheepuram.

... Petitioner

VS.

1. R.Sundaram
2. The Special Deputy Commissioner of
Labour,
D.M.S.Compound,
Chennai-6.

... 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 of the 2nd respondent made in A.P.No.589 of 2011 dated 22.09.2015 and to quash the same as illegal and against the provisions of the Industrial Disputes Act,

1947.

For Petitioner : Mr.C.S.K.Sathish
for Mr.P.Paramasiva Doss

For Respondents : Mr.V.Ajay Khose (R1)

ORDER

Petitioner – Transport Corporation has come up with this Writ Petition challenging the order dated 22.09.2015 passed by the 2nd Respondent in Approval Petition No.597 of 2011.

2. It is represented by the learned counsel for the Petitioner–Transport Corporation that, the 1st Respondent/employee joined the services of the Petitioner–Transport Corporation as a Driver on 17.01.1986. While so, the first respondent was unauthorizedly absent for eight days, due to which Charge Memo issued against him on 15.04.2011, for which the first respondent submitted his explanation. Not being satisfied with the explanation, enquiry was conducted and thereafter after issuing second show cause notice, the first respondent was dismissed from service on 23.12.2011.

3. It is seen that, the Labour Court rejected the Approval Petition filed by the Petitioner-Transport Corporation on 22.09.2015 on the ground that prima facie case was not established by the petitioner for the commission of the alleged conduct by the first respondent and further necessary documents were also not marked.

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**. According to the learned counsel, even hearsay evidence is admissible to establish accident cases.

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** in respect of Clause No.2(i) alone. For

better appreciation, the said clause is 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.

6. Taking note of the submissions of the learned counsel on either side and as the 2nd Respondent/employee has agreed to accept clause 2(i) of the proposal made by the Government, **the first Respondent/employee is permitted to go on compulsory retirement on the date of dismissal and he is entitled to eligible retirement benefits, such as Gratuity, Pension and Provident Fund, as per the Rules in force.**

The Writ Petition is disposed of accordingly. No costs.

Consequently, connected Miscellaneous Petition is closed.

30.07.2021

Index : Yes/No
Speaking Order : Yes/No

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To:

The Special Deputy Commissioner of
Labour,
D.M.S.Compound,
Chennai-6.



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S.VAIDYANATHAN,J.

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