



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.NO.14328 OF 2017

The Management,
Tamil Nadu State Transport Corporation
(Kumbakonam) Limited,
Represented by its General Manager,
Trichy Region,
Trichirapalli -620 001.

... Petitioner

vs.

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

2. N.Shanmugam

... Respondents

PRAYER:-

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 02.06.2016 passed by the 1st Respondent in Approval petition No.343 of 2012 and quash the same, consequently direct the 1st Respondent to approve the order of the Petitioner, dated 29.11.2012 dismissing the 2nd Respondent from service.

For Petitioner : Mr.D.Venkatachalam

For 2nd Respondent : Mr.K.Ramesh

O R D E R

Petitioner - Transport Corporation has come up with this Writ Petition challenging the order dated 02.06.2016 passed by the 1st Respondent in Approval Petition No.343 of 2012 and for a consequential direction to the 1st Respondent to approve the order dated 29.11.2012 passed by them, dismissing the 2nd Respondent from service.



2. The Petitioner/Transport Corporation has filed Approval Petition No.343 of 2012 seeking approval of their action in dismissing the 2nd Respondent/employee from service. The Labour Court rejected the Approval Petition on the ground that, the punishment of dismissal from service for 'unauthorized absence' is too harsh and that, the particulars pertaining to past records of the employee have not been furnished.

3. Learned counsel for the Petitioner-Transport Corporation pointed out that, the 2nd Respondent/employee absented himself from duty without prior permission for twenty times, for which minor punishments have been imposed. It is his contention 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. Undoubtedly, unauthorized absenteeism is indiscipline and termination from service may call for interference in an Industrial Dispute under Section 11-A of the Industrial Disputes Act, 1947, but not in an Approval Petition, as the scope in an Approval Petition is limited. In the case on hand, the 2nd Respondent/employee has been habitually absenting himself from duty. That being the case, the Authority ought not to have exercised his powers to interfere with the order passed by the Petitioner/Transport Corporation.

6. This Court finds much force in the contention of the learned counsel for the Petitioner/Transport Corporation. Accordingly, the order dated 02.06.2016 passed by the 1st Respondent/Authority in Approval Petition No.343 of 2012 is set aside.

The Writ Petition is allowed. No costs. Consequently, connected W.M.P.No.15556 of 2017 is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)



To

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

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+1cc to Mr.K.Ramesh, Advocate, S.R.No.37080

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.37125

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PCH (CO)

PBS/21/10/2021