



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.25272 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 - 6.

2. P.Ramamoorthy

... 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 19.04.2017 passed by the 1st Respondent in Approval Petition No.399 of 2012, and quash the same, consequently direct the 1st Respondent to approve the order of the Petitioner, dated 13.08.2012, dismissing the 2nd Respondent from service.

For Petitioner : Mr.D.Venkatachalam

For 2nd Respondent : Ms.S.Manjula

O R D E R

Petitioner/Transport Corporation has come up with this Writ Petition challenging the order dated 19.04.2017 passed by the 1st Respondent in Approval Petition No.399 of 2012 and for a consequential direction to the 1st Respondent to approve the order dated 13.08.2012 passed by them, dismissing the 2nd Respondent from service.



2. It is seen that, the 1st Respondent/Authority has rejected the Approval Petition filed by the Petitioner/Transport Corporation on the grounds that, the punishment imposed on the employee is disproportionate to the charges framed against him and that, there is shortfall in the payment of one month wages to the employee.

3. Learned counsel for the Petitioner/Transport Corporation contended that, the 1st Respondent/Authority failed to see the past conduct of the employee, which indicates that, he absented himself from duty on six occasions without prior permission, for which, minor punishments have been imposed on him.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. When the Authority has come to the conclusion that, the domestic enquiry has not been conducted in accordance with the principles of natural justice and that, there is procedural irregularity, then, it is the duty of the Authority to give an opportunity to the employer to establish the charges before him in the light of the decision rendered by the Apex Court in the case of John D' Souza vs. Karnataka State Road Transport Corporation, (2019) 18 SCC 47, followed by the decision of this Court in the case of Management, Tamilnadu State Transport Corporation (Villupuram) Limited vs. M.Chitti Babu, 2021 (1) LLJ 17 (Mad).

6. In the case on hand, the 2nd Respondent/employee had sent several representations to the Branch Manager, requesting them to subject him for examination by the Medical Board. Without taking note of the same and without getting any opinion from the Medical Board, the Petitioner/Transport Corporation has taken a decision, which is prima facie incorrect and there is no material evidence to substantiate the case of the Petitioner/Transport Corporation.

7. Thus, the Authority was right in holding that, the charges against the 2nd Respondent/employee have not been established. At the same time, the finding of the Authority that, there is victimization cannot be accepted. However, payment of one month full salary to the 2nd Respondent/employee is not in dispute, as it is represented by the Petitioner/Transport Corporation that, they have paid a sum of Rs.18,151/- to the employee towards one month salary, vide cheque dated 13.08.2012. Hence, on that score, the order passed by the Authority in the Approval Petition cannot be interfered.



8. In view of the above, the order dated 19.04.2017 passed by the 1st Respondent/Authority in Approval Petition No.399 of 2012 is confirmed and the Writ Petition stands dismissed. No costs. Consequently, connected W.M.P.No.26727 of 2017 is closed.

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

The Special Deputy Commissioner of Labour,
DMS Campus, Anna Salai, Chennai - 6.

+1cc to Mr.D.Venkatachalam, Advocate, Senior Standing Counsel
for TNSTC, S.R.No.37113

W.P.No.25272 of 2017

KG(CO)
SU(22/09/2021)