



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:05.01.2021

CORAM:

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P. (MD)No.11109 of 2010

and

M.P. (MD) .Nos.1 of 2010 and 1 of 2012

The Management,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Dindigul Region,
Bye-pass Road,
Collectorate Post,
Dindigul 624 004.

... Petitioner

Vs.

1.The Joint Commissioner of Labour (Conciliation),
Chennai -6.

2.Thiru P.Manoharan,
Conductor Staff No.60346,
Annaimuthammal Illam,
71-D, Vivekananda Road,
Goundankulam, Palani,
Dindigul District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records on the file of the first respondent pertaining to its proceedings order passed in Approval Petition No.374 of 2003, dated 11.01.2010 and quash the same.

For Petitioner : Mr.S.C.Herold Singh

For R1 : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader

For R2 : No appearance

O R D E R

Challenging the order passed by the Joint Commissioner of Labour (Conciliation), Chennai in Approval Petition No.374 of 2003, dated 11.01.2010, the present writ petition has been filed.

<https://hcservices.courts.gov.in/hcservices/> 2. The case of the petitioner is that the petitioner Management



appointed the second respondent as conductor on 01.05.1979 and he was unauthorisedly absent on various dates right from 27.08.2002 to 23.05.2003, without any leave application for more than 253 days. Hence, charge memos dated 16.11.2002, 23.01.2003, 11.02.2003, 15.03.2003, 22.04.2003, 13.05.2003 and 23.06.2003 were issued against the second respondent and his explanations were called for. But, he did not submit his explanation. Therefore, the Transport Corporation has conducted a domestic enquiry on 13.02.2003 and the second respondent has also participated and requested time and thereby several adjournments were given to him. However, the second respondent did not attend the enquiry and hence, an ex-parte enquiry was conducted and considering all these aspects, charges were also found to be proved as ex-parte. Thereafter, by order dated 25.10.200, the petitioner Management has dismissed the second respondent from service and filed an Approval Petition in A.P.No.374 of 2003 before the first respondent under Section 33(2) (b) of the Industrial Disputes Act, 1947. However, the first respondent has dismissed the approval petition. Challenging the same, the present writ petition has been filed by the petitioner Management.

3. The learned counsel appearing for the petitioner Management would submit that without any leave application, the second respondent was absent for 253 days and there is no proper explanation from him. Hence, a domestic enquiry was conducted and in order to prove the case, the petitioner Management examined one R.Murugan (A.W.1). The said Murugan has categorically deposed that he was working in the posting section and P.Manoharan, Conductor had not reported for work right from 27.08.2002 to 20.05.2003, in all, he was absent for 173 days. However, without considering the said evidence, the first respondent has mechanically dismissed the approval petition filed by the petitioner Management.

4. Heard the learned Additional Government Pleader appearing for the first respondent.

5. Admittedly, the second respondent has entered into service in the year 1979 and he rendered 22 years of service. Thereafter, without any leave application, he was absent for 253 days and charge memos were also issued for his unauthorised absence and an enquiry was also conducted and he was terminated from service. Though there is no proper explanation from the second respondent for his unauthorised absence, this Court has to consider the past service rendered by the second respondent in the Transport Corporation. Further, charge memos were issued to the second respondent for 253 days unauthorised absent, whereas the evidence deposed for the Management would reveal only for 173 days. Further, in his cross-examination, the Management evidence clearly deposed that P.Manoharan, the second respondent was admitted in the Government Medical Hospital at Palani and he took treatment for his health ailment and the said evidence was not considered by the Management in passing the maximum punishment of termination.



Therefore, this Court is not inclined to interfere with the order passed by the first respondent dated 11.01.2010 in A.P.No.374 of 2003. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Assistant Registrar

// True Copy //

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Sub Assistant Registrar(CS)

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To

The Joint Commissioner of Labour (Conciliation),
Chennai -6.

+1 CC to M/s.GP (SR-274[F] dated 06/01/2021)

W.P. (MD) No.11109 of 2010

05 .01.2021

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