



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

CORAM

THE HON'BLE MR.JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.A.NO.3140 OF 2021
AND C.M.P.NO.21722 OF 2021

The General Manager,
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Villupuram-605 602.

...Appellant / Petitioner

Vs

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

2.P.Kasinathan
Conductor No.CR1174,
S.Pettai Post
Gingee Taluk,
Villupuram District 604 152.

...Respondents / Respondents

Appeal preferred under Clause 15 of Letters Patent against the order dated 20.8.2019 made in W.P.No.268 of 2014.

Prayer in W.P.No.268 of 2014 : Writ petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari, to call for the records of the 1st respondent made in A.P.No.141 of 2010, dated 27.12.2012 and to quash the same as illegal.

For Appellant : Mr.G.Sarvana Kumar for
M/s S.Mishra Sathya Seeman

For Respondents : Mr.T.K.Saravanan,
Government Advocate for R1
Mr.K.M.Ramesh for
Mr.M.Vasanthakumar

JUDGMENT

(Delivered by PARESH UPADHYAY, J.)

Challenge in this appeal is made to the order dated 20 August 2019 recorded on W.P. No.268 of 2014. This appeal is by the writ petitioner / Management - State Transport Corporation.



2. Learned advocate for the appellant has submitted that the termination was ordered by the management on the guilt having been accepted by the workman and even otherwise there was sufficient material on record to hold him guilty. It is submitted that considering this punishment was imposed of termination from service. It is submitted that, approval, though was not within time, ought to have been granted by the authorities of the Commissionerate of Labour and refusal to it ought to have been interfered with in the writ petition filed by the management. It is submitted that rejection of the petition is an error which may be corrected in this appeal. It is submitted that this appeal be entertained.

3. On the other hand, learned advocate for the respondent No.2/ workman has submitted that the termination of the year 2008 was sought to be approved by the communication of the year 2010 which the authorities rightly not approved and on that count alone, no interference may be made by this Court.

4.1 It is additionally pointed out that the Deputy Commissioner of Labour, Chennai in Approval Petition No.141 of 2010 had framed the following issues.

- "1.Whether the employer has paid or offered to pay wages for one month to the employee;
- 2.Whether the employer has simultaneously or within such reasonably short time as to form part of the game transaction applied to the authority before which the main industrial dispute is pending for approval of the action taken by him;
- 3.Whether a proper domestic enquiry conducted in accordance with the principles of natural justice;
- 4.Whether a prima facie case for dismissal based on legal evidence adduced before the domestic Tribunal is made out; and
- 5.Whether the employer had come to a bona fide conclusion that the employee was guilty and the dismissal did not amount to unfair Labour practice and was not intended to victimize the employee."

4.2 By referring to the above, it is submitted that the authorities inter alia found that, the dismissal was not based on legal evidence, coupled with the fact that it was also found to be in breach of statutory provision and thereby issue Nos.1 and 2 were held to be in favour of the workman. It is submitted that this appeal be dismissed.

5. Having heard the learned advocates for the respective parties and having considered the material on record, this Court



finds that, the findings recorded by the Deputy Commissioner of Labour, as noted above, qua the issues framed by him can not be said to be erroneous in any manner. The writ petition filed by the management is rejected by the learned single Judge. We have considered the reasons recorded in the order under challenge. We do not find any error, much less any error apparent on the face of record, which may call for any interference in an intra-court appeal. This appeal therefore, needs to be dismissed.

6. For the reasons recorded above, this writ appeal is dismissed. No costs. Consequently, connected C.M.P.No.21722 of 2021 is closed.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

raa/33

To:

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

+1cc to Mr.G.Saravana Kumar, Advocate Sr.No.3945

+1cc to Mr.M.Vasanthakumar, Advocate Sr.No.4147

W.A.No.3140 of 2021

PL(CO)
RVM(17/02/2022)