



W.P.No.18925 of 2016

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 15.11.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.No.18925 of 2016**  
**and W.M.P.No.16511 of 2016**

The Management,  
Metropolitan Transport Corporation  
(Chennai) Ltd.,  
Pallavan Illam, Anna Salai,  
Chennai – 600 002.

...Petitioner

**Vs.**

1.Thiru.S.Ehilarasi

2.The Special Deputy Commissioner of Labour,  
D.M.S. Office, IV Floor,  
Teynampet, Chennai – 600 006.

Respondents

**Prayer :** Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records pertaining to the order passed in A.P. No.67 of 2012 dated 18.9.2013 on the file of the 2nd respondent herein and quash the same.



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For Petitioner : Mr.R.Ramanlal  
Additional Advocate General  
  
assisted by  
Mr.M.Chidambaram  
  
For Respondents : Mr.S.John J.Raja Singh  
Additional Government Pleader  
for R2  
  
Mr.S.T.Varadarajulu for R1

**ORDER**

The order dated 18.09.2013 passed in A.P.No.67 of 2012 is under challenge in the present writ petition.

2.The petitioner Metropolitan Transport Corporation Ltd., states that the 1<sup>st</sup> respondent was appointed as a daily wage workman. The 1<sup>st</sup> respondent workman remained unauthorizedly absent frequently and not reported for duty. Thus, disciplinary actions were initiated and after affording opportunity to the workman, an Enquiry Officer was appointed



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who in turn conducted an enquiry and submitted his report. Accepting the findings of the Enquiry Officer, the disciplinary authority afforded further opportunity to submit objections and finally passed the order imposing punishment of removal from service.

3.The petitioner filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act in A.P.No.67 of 2012. The 2<sup>nd</sup> respondent adjudicated the issues and formed an opinion that the enquiry was conducted in compliance with the rules of natural justice. The petitioner Management was able to establish a *prima facie* case for the purpose of initiation of disciplinary proceedings and the 2<sup>nd</sup> respondent arrived at conclusion that there is no unfair labour practice on victimization. However, one month salary as required was not paid as required under the statute. Further, the approval petition was filed beyond the period of limitation.

4.The learned Additional Advocate General appearing on behalf of the writ petitioner brought to the notice of this Court that proof regarding



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the payment of one month salary was filed before the 2<sup>nd</sup> respondent and the said document was not considered. However, the approval petition was filed belatedly.

5.In view of the fact that the 1<sup>st</sup> respondent had not scrutinized all the relevant documents for the purpose of forming a final opinion, the matter is remanded back for fresh consideration. The Labour Officers in the absence of availability of any records in the Approval Petition, are empowered to call for the entire records and find out whether, the procedures are followed or not.

6.In this regard, the Hon'ble Supreme Court of India in the case of ***John D'Souza vs. Karnataka State Road Transport Corporation*** reported in ***2019 18 SCC 47*** settled the issues.

7.In view of the fact that the 1<sup>st</sup> respondent had not considered the entire documents pertaining to the disciplinary proceedings, the matter is to



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be remanded back. Accordingly, the order dated 18.09.2013 in A.P.No.67 of 2012 is quashed and the matter is remanded back. The 1<sup>st</sup> respondent is directed to conduct a fresh adjudication by affording opportunities to all the parties and call for the records, examine the same and dispose of, as expeditiously as possible.

8. With this direction, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

**15.11.2022**

Index : Yes  
Internet : Yes  
Speaking order : Yes  
ssr

To

The Special Deputy Commissioner of Labour,  
D.M.S. Office, IV Floor,  
Teynampet, Chennai – 600 006.



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**S.M.SUBRAMANIAM, J.**

SSR

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