



W.P.No.18931 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.18931 of 2016
and W.M.P.No.16517 of 2016

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

...Petitioner

Vs.

1.Thiru.P.Ramamurthy

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.226 of 2013 dated 12.11.2015 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 12.01.2015 passed in A.P.No.226 of 2013 is under challenge in the present writ petition.

2.The 1st respondent workman was employed as a daily rated employee and he remained unauthorizedly absent from reporting duty. The petitioner Management initiated disciplinary proceedings against the 1st respondent workman and a charge memo was issued. An Enquiry Officer was appointed who in turn conducted an enquiry and submitted his report.



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Accepting the findings of the Enquiry Officer, the disciplinary authority imposed the punishment of removal from service. The petitioner Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act and the 2nd respondent adjudicated the issues based on the documents marked in the Approval Petition. Perusal of the order reveals that the enquiry proceedings in entirety were not scrutinized by the 2nd respondent for arriving at a final conclusion. The Labour Officers are bound to scrutinize the documents in entirety for the purpose of forming a final opinion. If at all certain documents were not filed by the Management along with Approval Petition, the Labour Officers are empowered to call for the entire records and thereafter, form a final opinion in order to avoid any prejudice to either of the parties. In the absence of relevant documents, the authority may not be in a position to form a correct opinion.

3. 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.



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4. At the outset, the 2nd respondent Labour Officer in the absence of marking any documents relating to disciplinary proceedings is empowered to call for the entire records from the Management and thereafter, form an opinion and pass orders on merits and in accordance with law. In the event of passing an order in the absence of all relevant documents, the same will lead to miscarriage of Justice. Disciplinary proceedings being an important one as far as the employer and employee are concerned, the Labour Officers are bound to adjudicate the issues meaningfully and by verifying the relevant documents in entirety. In the present case, the enquiry proceedings were not marked by the Management and the Labour Officer without calling for the records formed an opinion. Thus, the matter is to be remanded back for fresh consideration. Accordingly, the order dated 12.11.2015 passed in A.P.No.226 of 2013 is quashed and the 1st respondent is directed to adjudicate the issues afresh by affording opportunity to all the parties and by examining the documents in entirety and pass final orders, as expeditiously as possible.



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5. With this direction, this writ petition stands allowed. No Costs.

Consequently, connected miscellaneous petition is closed.

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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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