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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.38356 OF 2015

AND M.P.NOS.1 & 2 OF 2015 AND W.M.P.NO.16739 OF 2016
(THROUGH VIDEO CONFERENCE)

The Management,
TNSTC Ltd.,
(Kumbakonam Division I),
Kumbakonam.

..Petitioner

-Vs-

1. The Presiding Officer,
Labour Court,
Cuddalore.

2. T.Ganesan

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the first respondent in I.D.No.113 of 2004 dated 19.08.2014 and quash the same.

For Petitioner : Mr.L.Ramanathan

For R-2 : Mr.V.Ajoy Khose

R1 : Labour Court

O R D E R

The second respondent herein, who served as a Clerk under the petitioner Management was dismissed from service on 12.04.2002. When the dismissal order was challenged in



I.D.No.113 of 2004 before the Labour Court, Cuddalore, the Award dated 19.08.2014 came to be passed for reinstatement along with backwages, attendant benefits and continuity of service.

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2. By the time the Award was passed, the second respondent herein had reached the age of superannuation. The Labour Court, while ordering reinstatement, had found that, when the dismissal order was passed, there was a conciliation proceedings pending before the concerned Authorities and since the petitioner Corporation had not obtained the pre-approval from the Authorities, the dismissal order itself is bad. The mandatory requirement of pre-approval under Section 33 (2)(b) of the Industrial Disputes Act, 1947 has been rectified in various decisions of the Hon'ble Apex Court as well as this Court. Following the same, this Court has also confirmed a similar Award in the case of the Managing Director, Metropolitan Transport Corporation, Chennai vs. N.Prabhakaran and another in W.P.No.2 of 2015 dated 07.12.2021. The relevant part of the order reads as follows:

"3. At the outset, I do not find any infirmity in the reasons assigned by the Labour Court in the impugned award dated 28.04.2014, since Section 33(2) (b) of the Act mandates for pre-approval of the concerned authority before discharging a workman when conciliation proceedings are pending. This legal proposition has been ratified in various decision of the High Courts, as well as the Hon'ble Supreme Court, including the decision in 'Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd., vs. Ram Gopal Sharma and others' reported in (2002 2 SCC 244) and hence, I do not find any reason to interfere with the impugned award of the Labour Court."

3. Since the pre-approval of the concerned Authorities is a mandatory requirement under Section 33 (2) (b) of the Industrial Disputes Act, 1947, when a conciliation proceeding is pending and which the Management admittedly had not obtained, I do not find any infirmity in the Award dated 19.08.2014 passed in I.D.No.113 of 2004 by the Labour Court, Cuddalore. Accordingly, the Writ Petition stands Dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

4. In view of the above dismissal order passed by this Court, the Management shall disburse all the service and retirement benefits, including the pensionary benefits, at the



earliest, in any event within a period of six(06) weeks from the date of receipt of a copy of this order.

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Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To:

The Presiding Officer,
Labour Court,
Cuddalore.

+1cc to Mr.D.Venkatachalam, Advocate, S.R.No.418
+1cc to Mr.V.Ajoy Khose, Advocate, S.R.No.879

W.P.No.38356 of 2015

KSM(CO)
PM/20/01/2022