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W.P.No.35601 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.35601 of 2016

and

W.M.P.No.30605 of 2016

The Management of Metropolitan
Transport Corporation (Chennai) Ltd.
Pallavan Illam, Anna Salai,
Chennai-600002.

... Petitioner

Vs.

1. Thiru. B.Rajan

2. The Special Deputy Commissioner of Labour,
D.M.S.Complex, IV Floor,
Teynampet, Chennai -600006

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records pertaining to the order passed in A.P.No. 276 of 2013 dated 12.11.2015 on the file of the 2nd respondent herein and quash the same.

For Petitioner : Mr.R.Ramanlal - AAG... Assisted by
Mr.M.Chidambaram

For Respondents : Mr.P.Kumaresan Assisted by
Mr.S.John J.Raja Singh [R.2]
: No appearance [R.1]



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ORDER

The order dated 12.11.2015, passed in A.P.No.276 of 2013, is under challenge in the present writ petition.

2. The petitioner is Metropolitan Transport Corporation, Chennai Limited. The first respondent workman was working as an Assistant Tradesman and remained unauthorisedly absent for about 409 days. Disciplinary proceedings were initiated against him. The disciplinary authority issued a charge memo and conducted a domestic inquiry. Thereafter by following the procedures, punishment of removal from service was imposed on him.

3. The writ petitioner Management filed an Approval Petition in A.P.No.276 of 2013. The second respondent adjudicated the issues by framing 5 issues based on the judgement of the Hon'ble Supreme Court in the case of ***Lalla Ram***.

4. The learned Additional Advocate General brought to the notice of this Court that the second respondent had not adjudicated the issues with



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reference to the documents and evidence. Contrarily, without giving any reasoning, they arrived at a conclusion that no prima facie case has been made and the authorities are unable to decide whether the domestic inquiry was conducted by complying with the Rules of Natural Justice or not. By this, there was a delay of 13 days in filing the Approval Petition.

5. This Court is of the considered opinion that delay in filing an Approval Petition is to be condoned. The practical difficulties of public administration are also to be considered in this regard. No employee, against whom a misconduct is established, shall be allowed to escape from the clutches, merely on such technical ground of delay in filing an Approval Petition. No doubt, if the delay is enormous, then it cannot be condoned. However certain administrative delay in filing the Approval Petition is to be condoned in the interest of justice and on that ground, no charged official shall be allowed to escape from the disciplinary proceedings.

6. In the present case, a perusal of the findings made by the second respondent reveals that there is no absolute reason recorded for the purpose of arriving at the final conclusion. When issues are not even



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decided, contrarily the second respondent made a finding that he was not in a position to form an opinion regarding the compliance of Rules of Natural Justice. Such a finding is untenable in view of the fact that if the issues are unable to be decided, then the authorities cannot form an opinion, whether the penalty is to be approved or not.

7. Therefore, in the event of unavailability of documents or if any doubt arises regarding the procedures followed while conducting the disciplinary proceedings, then the second respondent is empowered to call for the records from the Management and examine the same by affording opportunities to all the parties and thereafter arrive at a conclusion by recording reasons for such conclusions. In the present case, no such reasoning is recorded and thus, the findings of the second respondent in the order impugned is perverse.

8. Accordingly, the order impugned dated 12.11.2015, passed in A.P.No.276 of 2013 is quashed and the matter is remanded back for fresh consideration. The second respondent is directed to call for the entire records from the writ petitioner Management, examine the same, adjudicate the issues by affording opportunities to all the parties, and



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thereafter passed speaking orders on merits and in accordance with law as expeditiously as possible.

9. With these directions, the writ petition stands **allowed**. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

11.11.2022

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Internet : Yes
Index : Yes
Speaking order

To

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S.M.SUBRAMANIAM, J.

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