



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No. 16536 of 2018
and W.M.P.No.19721 of 2018

The Management,
Tamil Nadu State Transport Corporation,
(Villupuram) Limited,
Tiruvannamalai Division,
Tiruvannamalai.

... Petitioner

Vs.

1.K.Shanmugam

2.The Joint Commissioner of Labour,
Chennai.

... Respondents

PRAYER: This Writ Petition has been filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorari calling for the records relating to the order dated 20.03.2017 passed in A.P.No.3 of 2015 on the file of the second respondent and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioner: Mr.K.J.Sivakumar

For R1 : Mr.S.T.Varadarajulu

For R2 : Mr.P.Ganesh
Government Advocate

ORDER

Based on the charges of unauthorised absence for the period between 21.06.2011 to 20.08.2011, the petitioner had served a charge memo on the first respondent dated 26.08.2011 pursuant to which, an ex-parte enquiry was conducted and the charges were held to be proved. Consequently, by an order dated 09.01.2015, the first respondent was terminated from the service. On the same day, the petitioner-Management had filed an application under Section 33(2)(b) before the concerned authority seeking for approval of the dismissal order. The order came to be rejected on 20.03.2017, which is put under challenge in the present writ petition.



2.The authority had found that enquiry proceedings were not filed, which is contrary to the claim made by the Management and therefore, by applying principles laid down by the Hon'ble Supreme Court in Lalla Ram Vs. DCM Chemical Works, reported in AIR 1978 SC 1004, had found that the enquiry was against the principles of natural justice. The other findings given was that the enquiry was not based on proper evidences and the punishment imposed was also disproportionate to the levelled charges.

3.I do not find any infirmity in such findings of the Labour Court. The enquiry was held ex-parte and that apart, for a charge of unauthorised absence for a period of two months, the punishment of removal from service has been made. As such, the view of the authority that the punishment is disproportionate, cannot be found fault.

4.In the result, this writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Dua

To

1.The Joint Commissioner of Labour,
Chennai.

+1cc to Mr.K.J.Sivakumar, Advocate, S.R.No.4172

+1cc to Mr.S.T.Varadarajulu, Advocate, S.R.No.3824

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RK(CO)
SB(11/02/2022)