



W.P.No.31819 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.31819 of 2014

and

M.P.No.2 of 2014

P.Pachaiyappan

...Petitioner

Vs

1.The General Manager,
Tamil Nadu State Transport
Corporation (Salem) Limited,
Dharmapuri Region,
Dharmapuri - 636 705.

2.The Branch Manager,
Tamil Nadu State Transport
Corporation (Salem) Limited,
Krishnagiri Rural Branch,
Krishnagiri.

3.The Special Deputy Commissioner
of Labour, DMS Building,
Mount Road, Chennai.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the entire records culminated in issuing the impugned order passed by the 3rd respondent in Approval



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Petition No.141 of 2011 dated 07.12.2011 in pursuant to the second show cause notice in 49/2012/D5/Thanaapoka/2011 dated 05.04.2011 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.C.Kanagaraj

For R1 & R2 : Mr.R.Babu

For R3 : Mr.D.Velu,
Additional Government Pleader

ORDER

Heard Mr.C.Kanagaraj, learned counsel for the petitioner, Mr.R.Babu, learned counsel for the first and second respondents and Mr.D.Velu, learned Additional Government Pleader appearing for the third respondent.

2. The petitioner herein, who was employed as a Driver under the respondent Transport Corporation, was levelled with certain charges and pursuant to an enquiry conducted, he was dismissed from service on 19.05.2011. On the same day, the Transport Corporation had filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking for approval of the order of dismissal. In the proceedings before the Special Deputy Commissioner of Labour, Chennai, in Approval Petition



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No.141 of 2011, the petitioner had not participated in the enquiry. In this background, the Approval Petition came to be ordered and accordingly, the petitioner's order of dismissal was approved on 07.12.2011. This order is put under challenge in the present Writ Petition.

3. The learned counsel for the petitioner predominantly raised a ground that the impugned order dated 07.12.2011 is a non-speaking order.

4. A perusal of the order also reveals that no reasons have been assigned by the authority while granting approval to the action taken by the Transport Corporation. The only reference made in the impugned order is that since the petitioner herein had not presented himself for the enquiry, the approval seems to have been granted. Such an action is opposed to settled propositions of law.

5. Even when a workman does not present himself during the course of enquiry, there is a duty cast on the statutory authority to address all the grounds raised in the Approval Petition and if any counter has been filed, the same also requires to be addressed and then a speaking order requires to be



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passed. Thus, allowing the application on the ground that the workman had not appeared before the authority, is illegal. In this background, it would be appropriate to remit the matter back to the authority for reconsideration of the Management's Approval Petition.

6. In the light of the above observations, the impugned order passed by the third respondent dated 07.12.2011 is quashed. Consequently, the matter is remitted back to the third respondent herein, who shall conduct a fresh enquiry, after affording due opportunities to the petitioner as well as the Transport Corporation and consider all the grounds raised in the Approval Petition and pass a speaking order, within a period of 3 months from the date of receipt of a copy of this order. The petitioner is also at liberty to file a counter statement before the authority, if required.

7. Accordingly, the Writ Petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Speaking order/Non-speaking order
hvk



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WEB COPY To

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M.S.RAMESH,J.

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