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W.P.No.1284 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.1284 of 2014

and

M.P.No.1 of 2014

The General Manager,
Tamilnadu State Transport
Corporation (Villupuram) Limited,
Cuddalore Region, Cuddalore.

...Petitioner

Vs

1.The Special Deputy Commissioner
of Labour (Conciliation),
D.M.S. Compound, Chennai - 06.

2.P.Gnanasekaran

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records of the 1st respondent made in Approval Petition No.214/2010 dated 27.12.2012 and to quash the same as illegal and against the provisions of the Industrial Disputes Act, 1947.



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For Petitioner : Mr.M.Aswin
For R1 : Mr.G.Velu,
Additional Government Pleader
For R2 : Mr.S.T.Varadarajulu

ORDER

Heard Mr.M.Aswin, learned counsel for the petitioner, Mr.G.Velu, learned Additional Government Pleader for the first respondent and Mr.S.T.Varadarajulu, learned counsel for the second respondent.

2. On the strength of certain proven charges, the second respondent herein, who was employed as a Conductor, was dismissed from service on 30.11.2010. The management had filed an application under Section 33(2)(b) of the Industrial Disputes Act, 1947, after 8 days from the date of dismissal. The first respondent had rejected the approval petition predominantly on two grounds, stating that the approval petition itself was filed belatedly after 8 days and that one month wages was not fully paid to the second respondent herein.



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3. In the case of ***Lalla Ram Vs. D.C.M. Chemical Works reported in A.I.R. 1978 (S.C.) 1004***, the Hon'ble Supreme Court had set forth certain circumstances under which an approval petition can be set aside and if any one of the circumstances are found to be violated by the management, the approval petition could be rejected. Among these circumstances, the one month full wages ought to be paid at the time of dismissal and the approval petition under Section 33(2)(b) requires to be filed simultaneously on the date of dismissal.

4. In the instant case, the authority had found that the approval petition was filed after a delay of 8 days and also held that the one month wages was not fully paid to the second respondent herein. By applying the ratio laid down in *Lalla Ram's case (supra)*, I do not find any infirmity in the order of rejection.

5. The second respondent has filed an affidavit before this Court, stating that he has given up his right of claiming the back wages from the date of dismissal, till the date of superannuation, i.e. from 30.11.2010 to 30.09.2012.



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6. In the result, the Writ Petition stands dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

7. In view of the dismissal of the present Writ Petition, the petitioner Corporation shall forthwith disburse all the retirement benefits to the second respondent herein, except the back wages between 30.11.2010 and 30.09.2012, including the pensionary benefits, within a period of 4 weeks from the date of receipt of a copy of this order. The petitioner Corporation are at liberty to adjust the contributions payable to the Employees' Pension Trust from the retirement benefits of the second respondent, without interest.

28.10.2022

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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- 1.The Secretary to Government,
Government of Tamilnadu,
Industries (Mic-2) Department,
Secretariat, Chennai - 600 009.
- 2.The Commissioner of Sugars,
No.474, Anna Salai,
Chennai - 600 035.
- 3.The Joint Registrar,
Managing Director,
Kallakurichi II Co-op Sugar Mills Ltd.,
Kachirapalayam - 606 207,
Chinnasalem Taluk,
Villupuram District.



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M.S.RAMESH,J.

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