



WEB COPY



W.P.No.7152 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7152 of 2016
and W.M.P.No.6355 of 2016

The Management of Metropolitan
Transport Corporation (Chennai) Ltd.,
Pallavan Illam,
Anna Salai,
Chennai – 600 002.

...Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
Authority under Section 33(2)(b) of the ID Act, 1947
Chennai.

2.P.Sekar

Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, to call for the records of the order passed by the 1st respondent in Approval Petition in A.P. No.462/2011 dated 18.9.2013 and to quash the same as illegal.



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For Petitioner

: Mr.R.Ramanlal
Additional Advocate General

assisted by
Mr.C.Gauthama Raj

For Respondents

: Mr.S.John J.Raja Singh
Additional Government Pleader for R1

Mr.S.T.Varadarajulu for R2

ORDER

The order passed in A.P.No.462/2011, dated 18.09.2013 is under challenge in the present writ petition.

2.The petitioner is Metropolitan Transport Corporation, Chennai Ltd. The 2nd respondent was a Driver against whom disciplinary proceedings were initiated and a charge memo was issued on 22.11.2008. The allegation against the 2nd respondent workmen was unauthorized absence frequently. A domestic enquiry was conducted and based on the findings of the Enquiry Officer, the punishment of removal from service was imposed by following the procedures. The petitioner Management filed an application under Section 33(2)(b) of Industrial Disputes Act in A.P.No.462 of 2011. The 1st respondent adjudicated the issues and made a

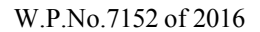


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finding in the impugned order that domestic enquiry was properly conducted by following the principles of natural justice. *Prima facie* case also has been made out against the workmen. There is no victimization or unfair labour practice. One month wage was also paid to the workmen. However, on the ground of delay, the application was rejected.

3.The learned Additional Advocate General brought to the notice of this Court that there was a delay of 16 days in filing the approval petition which is meager and therefore, dismissal of the petition on that ground is improper and thus, the order impugned is to be set aside.

4.The learned counsel for the petitioner brought to the notice of this Court that in respect of the same workman another order has been passed in the very same A.P.No.462/2011, wherein, the 1st respondent found that the principles of natural justice was not properly followed. At the outset, it is contended that two different orders were passed by the 1st respondent in respect of the same workman/2nd respondent, which created confusion with reference to the adjudication made on the issues.



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appreciated. There is possibility of error at all circumstances in the event of piecemeal adjudication are based on few documents relating to the disciplinary proceedings.

6.In this regard, the Hon'ble Supreme Court of India in the case of ***John D'Souza vs. Karnataka State Road Transport Corporation*** reported in ***2019 18 SCC 47*** settled the issues.

7.In the present case, two different orders are produced before this Court in respect of the same A.P.No.462/2011, which creates a confusion and the manner in which the adjudication was done by the 1st respondent and orders are passed. In view of the facts and circumstances, the matter is to be remanded back. Accordingly, the order dated 18.09.2013 passed in A.P.No.462/2011 is quashed and the matter is remanded back for fresh consideration. The 1st respondent is directed to adjudicate the issues on merits and in accordance with law and by calling for the entire records from the Management and by affording opportunity to all parties and dispose of the petition, as expeditiously as possible.



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S.M.SUBRAMANIAM, J.

SSR

8.With this direction, this writ petition stands allowed. No Costs.

Consequently, connected miscellaneous petition is closed.

15.11.2022

Index : Yes

(1/2)

Internet : Yes

Speaking order : Yes

SSR

To

The Special Deputy Commissioner of Labour,
Chennai.

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