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WP No.9663 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-11-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.9663 of 2017

And

WMP Nos.23477 and 23478 of 2017

The Management,
Metropolitan Transport Corporation
(Chennai) Limited,
Anna Salai,
Pallavan Illam,
Chennai-600 002.

..

Petitioner

VS.

1.The Special Deputy Commissioner of Labour,
D.M.S. Office,
Teynampet,
Chennai-600 006.

2.Thiru S.Nagarajan

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records pertaining to the order passed in A.P.No.380 of 2013 dated 29.08.2016 on



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the files of the first respondent herein and quash the same.

For Petitioner

: Mr.R.Ramanlal,
Additional Advocate General
Assisted by Mr.M.Chidambaram.

For Respondent-1

: Mr.P.Kumaresan,
Additional Advocate General
Assisted by Mr.S.John J.Raja Singh,
Additional Government Pleader.

For Respondent-2

: Mr.A.Rajendiran

ORDER

The order passed by the first respondent in Approval Petition No.380 of 2013 dated 29.08.2016, is sought to be quashed in the present writ petition.

2. Metropolitan Transport Corporation Chennai Limited is the petitioner, who filed the Approval Petition under Section 33(2)(b) of the Industrial Disputes Act, 1947.

3. The first respondent-Commissioner of Labour adjudicated the issues as per the principles laid down by the Hon'ble Supreme Court of



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India in the case of **Lalla Ram vs. DCM Chemical Works Ltd [(1978) 3**

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SCC 1]. The first respondent made a finding that the Authorities unable to decide whether an enquiry is conducted as per the natural justice or not.

4. Regarding prima facie case, enquiry report was not furnished before the first respondent and therefore the Authorities held that not proved. However, there was no victimisation against the second respondent-workman and the one month salary paid was not realised by the second respondent-workman, since the cheque was returned. There was a delay of 5 days in filing the Approval Petition.

5. Regarding the delay in filing if it is meagre and explained, then the Authorities Competent are bound to condone the delay and decide the issues on merits. On hyper technical grounds, the second respondent-workman shall not be allowed to escape from the clutches of the departmental disciplinary proceedings. In the event of an unexplained long delay, then alone the approval petition is to be rejected and in respect of the meagre delay lenient view is to be taken considering the administrative



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difficulties in following the procedures for the purpose of filing an Approval Petition by the Management of the Transport Corporation.

6. The petitioner-Transport Corporation is performing public services and there will be many administrative difficulties in processing the application. Thus such administrative delay if it is meagre and explained by the Competent Authorities, then the Approval Petition cannot be dismissed on such delay and therefore, this Court is of the opinion that the said finding deserves to be set aside.

7. As far as the findings regarding the other issues, the first respondent found that the enquiry report was not submitted by the Management. Therefore, it was held that the charges are not proved. The first respondent is a Quasi Judicial Authority and therefore, they are empowered to call for the records from the Management and adjudicate the issues. If at all the Management has not produced the relevant records, then the first respondent is bound to call for the records and thereafter, adjudicate the issues in the interest of public and to provide an opportunity to all the



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parties to adjudicate the issues on merits and in accordance with law.

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8. Contrarily, the first respondent cannot take a decision in a mechanical manner by holding that the enquiry report is not available and therefore the charges are not proved. Such a finding shows non-application of mind. When the Quasi Judicial Authority is empowered to call for the records and adjudicate the issues, then at all circumstances such Authority is expected to call for the records from the Management and thereafter adjudicate the issues.

9. In the present case, there was no effective adjudication with reference to the departmental disciplinary proceedings conducted against the second respondent-workman and thus the order is to be remanded back. Accordingly, the order passed in Approval Petition No.380 of 2013 dated 29.08.2016 is quashed and the first respondent is directed to conduct a fresh adjudication by verifying all the relevant records relating to the enquiry proceedings and thereafter pass orders by affording an opportunity to all the parties and decide the issues as expeditiously as possible, preferably within



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a period of six months from the date of receipt of a copy of this order.

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10. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
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To
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The Special Deputy Commissioner of Labour,
D.M.S. Office,
Teynampet,
Chennai-600 006.



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S.M.SUBRAMANIAM, J.

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