



WEB COPY



W.P.No.14587 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14587 of 2017

and

W.M.P.Nos.15808 of 2017 & 5407 of 2022

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

...Petitioner

Vs.

1.The Special Deputy
Commissioner of Labour,
(Under Section 33 (2)(B) of the Industrial
Disputes Act, 1947)
Chennai.

2.N.Ayyappan

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the order passed by the 1st respondent in Approval Petition in A.P.No.134 of 2013 dated 16.03.2015 and to quash the same as illegal.



WEB COPY



W.P.No.14587 of 2017

For Petitioner : Mr.R.Ramanlal
Additional Advocate General
Assisted by Mr.C.Gauthamaraj

For R1 : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.S.John J.Rajasingh
Additional Government Pleader

For R2 : Mr.K.Malaikannu

ORDER

The order passed by the 1st respondent in Approval Petition in A.P.No.134 of 2013 dated 16.03.2015 is under challenge in the present writ petition.

2. The petitioner is Management of Metropolitan Transport Corporation (Chennai) Limited. The disciplinary proceedings initiated against the second respondent-workman ended with the punishment of removal from service. Consequently, the writ petitioner/Management filed an Approval Petition under Section 33(2) (b) of the Industrial Disputes Act, 1947. The first respondent/competent authority framed issues, following the principles laid down by the Hon'ble Supreme Court of India in the case of



W.P.No.14587 of 2017

Lalla Ram vs. DCM Chemical Works Ltd [(1978) 3 SCC 1] and made findings.

3. With reference to the findings, there was a delay of 4 years and 4 months in filing the Approval Petition and it was unexplained. Therefore, the 1st respondent formed an opinion that the Approval Petition is liable to be rejected. Though the enquiry was conducted in compliance with the rules of natural justice, the authority found that it is a case of victimization and one month salary was not paid and there was a delay of about 4 years and 4 months in filing the Approval Petition.

4. Unexplained delay cannot be condoned. In other words, such a long delay, which is not explained, is to be construed as uncondonable. Therefore, this Court do not find any infirmity in respect of the order of rejection of Approval Petition passed by the first respondent. Beyond the findings in respect of the enquiry proceedings, the long delay in filing an Approval Petition is vital in the present case. Thus, this Court is not inclined to entertain the grounds raised on behalf of the petitioner/Management.



W.P.No.14587 of 2017

5. Accordingly, the writ petition stands dismissed. No costs.

WEB COMMENTS
Consequently, connected miscellaneous petitions are closed.

25.11.2022

Index : Yes
Speaking order: Yes
kak

To

1.The Special Deputy
Commissioner of Labour,
(Under Section 33 (2)(B) of the Industrial
Disputes Act, 1947)
Chennai.



WEB COPY



W.P.No.14587 of 2017

S.M.SUBRAMANIAM, J.

kak

W.P.No.14587 of 2017

25.11.2022